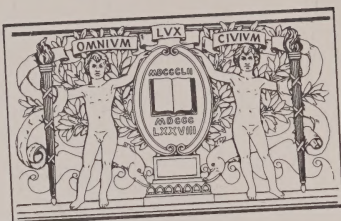


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THE ASSESSING FUNCTION IN BOSTON

A Study of the Property Assessment Process
in the City of Boston and the Impact of
Existing Tax Policies and Laws



Prepared for the
Boston Finance Commission
by
The Jacobs Company, Inc.
June 1971

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Prepared for the
Boston Finance Commission
by
The Jacobs Company, Inc.
Chicago, Illinois
1971

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THE JACOBS COMPANY, Inc.

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Consultants in Public Administration and Finance

June 21, 1971

The Finance Commission of the City of Boston
Three Center Plaza
Room 820
Boston, Massachusetts 02108

Gentlemen:

We are pleased to submit our report on "The Assessing Function in Boston."

This study of the property assessment process in the City of Boston and the impact of existing tax policies and laws was undertaken on the joint initiative of the Mayor of the City of Boston and the Boston Finance Commission with the approval of the City Council. It came about due to a widespread recognition that the City of Boston relies heavily upon the property tax to finance its municipal services and that, therefore, the health of its property tax base in large measure determines the financial condition of the community. It was recognized, too, that for this reason it is imperative that the assessment of real and personal property be performed with the utmost impartiality and efficiency possible under current laws and policies.

The Jacobs Company was engaged by the Finance Commission to analyze the tax system, the Assessing Department's structure and its operations and to make recommendations for improvements where necessary.

As we began our study in February 1971, Mayor Kevin H. White's administration pledged its full support and cooperation. We are very pleased to report that this pledge was honored wherever we went in City Hall. We were fortunate also in finding a willingness to help throughout the community from organizations and individuals too numerous to mention here.

Nevertheless, we would be remiss if we did not acknowledge the cooperation and assistance we received from the Commissioner of Assessing, Theodore V. Anzalone. Commissioner Anzalone is well aware that there are numerous assessing problems in Boston, both in the department and in the system within which the department must function.

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The Finance Commission
of the City of Boston

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June 21, 1971

In our opinion, he is dedicated to correcting these problems wherever possible. Our thanks also to the Chairman of the Board of Review, Bernard F. Shadrawy, who was designated as liaison man to our staff and who gave freely and generously of his time and expertise throughout our study. Literally, scores of others in the Department also lent a hand.

We must also express our appreciation to the Finance Commission Executive Secretary, Thomas J. Murphy, and other members of the Commission staff for their assistance, and to many people in the Commonwealth's Department of Corporations and Taxation, the City's Department of Administrative Services, the Boston Redevelopment Agency, the Office of the Mayor, and the Boston Real Estate Board, all of whom were of inestimable assistance.

Finally, the Finance Commission's Chairman, Lawrence T. Perera, took an active interest in the project from the start and devoted countless hours to reviewing our progress and helping us to understand the intricacies of the Massachusetts tax system.

The study was conducted in Boston from February to mid-May. Senior personnel from several divisions of The Jacobs Company and an affiliate company were assigned to this survey so that expertise from various disciplines could be brought to bear on the questions and problems we encountered. The overall project was under the management of the Appraisal Services Division. The on-site Project Coordinator was Sigfrid Pearson, from the Administrative Services Division, who was assisted in Boston by Frederic E. Grimes of the Appraisal Services Division. Also assigned to specific tasks in the project were Robert M. Thrash of the Personnel Services Division who analyzed the personnel system in the City and personnel relations in the Department of Assessing. David J. Berardo of Economic Research Associates researched and analyzed the legal aspects of the Massachusetts tax system and the pre-construction tax agreements. Due to the technical complexities of the assessing functions, The Jacobs Company also retained a professional writer, Richard A. Martin, to assist in organizing the mass of material which our research staff had gathered and to help put it into words that a layman can understand.

Office space was provided by the Commissioner of Assessing, and the vast majority of our research was done in City Hall and in the field in Boston. Our research team lived with the assessing problems in Boston for the better part of four months. Many reports and documents were reviewed and analyzed. Numerous interviews were conducted with people in the Assessing Department, in other City departments and in organizations not a part of the City government. The operations of the department were studied both in the office and in the field.

The Finance Commission
of the City of Boston

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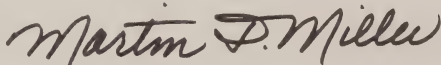
June 21, 1971

While we have made many recommendations for improving the assessing function in Boston, we would like to stress our strong conviction that in many ways the Assessing Department is the victim of fiscal laws, regulations, and traditions which leave much to be desired. We were impressed by the fact that most of the personnel in the Department, from the Commissioner to the clerk, want to do a good job but have been hampered by a lack of ways and means of doing it.

It is difficult to summarize a report on an operation as complex as the assessing function in Boston but perhaps the four key elements which are most needed are: 1) an improved tax system in the Commonwealth, including less reliance on the property tax for financing local government, 2) a vastly improved information network without which no assessing can be done efficiently and effectively, 3) a restructuring and reorganization of the department with clear-cut lines of responsibility and authority and harmonious, predictable relationships among its units and people and 4) the development and adoption of a uniform system of procedures and standards for conducting both the administrative and appraisal operations of the department.

We appreciate having had the opportunity to serve the City of Boston through this study, and we sincerely trust that the recommendations we have made will enable the City to make the Boston Assessing Department and its operations a model for the nation.

Very truly yours,



Martin D. Miller
Senior Vice President
Appraisal Services Division

MDM a

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PART I

FACTORS, TRENDS, AND PATTERNS AFFECTING
BOSTON'S FISCAL WELL-BEING AND THE SOLV-
ENCY OF THE CITY'S MUNICIPAL GOVERNMENT

Summary of Findings

1. Boston relies more on property taxes to finance local government than any other city its size in the United States. Some 65 to 70% of revenues come from this source, as compared to a national average of less than 50%.
2. Paradoxically, while Boston relies so heavily on a property-oriented revenue base, that base has shrunk to the point where 52% of total property valuations are tax-exempt.
3. The dilemma of exempt property valuation increases is illustrated by the fact that 77% of total exempt properties are government owned.
4. In Boston, where 48% of the properties and property owners carry the entire ad valorem tax load, the tax on a typical \$20,000 home is higher, by comparison, than in any other of the nation's 20 largest cities.
5. The impact of the shrinking ad valorem revenue base can be seen in the increase of the property tax rate from \$24.10 in 1920 to \$156.80 in 1970. In the same 50 year period total property valuations have remained at nearly the same level.
6. Total area not producing revenue for tax purposes in Boston increased from 23.4 square miles or 49% during 1960 to 25.8 square miles or 54% in 1970. In a city where the property tax provides 65 to 70% of available revenues, this is a serious matter.
7. Of the nation's 43 largest cities, only Boston, Milwaukee, and Indianapolis fail to utilize at least one of three available local revenue sources: sales, utility and income taxes.
8. Central cities are likely to obtain more revenue from combined sales and income taxes than from property taxes sometime in the next 20 years. Revenue from these sources will tend to supplant ad valorem taxes as the fiscal mainstay of local government.

9. Because Boston relies so heavily on ad valorem taxes its ability to meet municipal obligations and to maintain a viable government in the future will be determined, in large part, by how effectively the Assessing Department functions.
10. The Assessing Department is caught in a web of state and local laws and traditions which hamper its operational effectiveness and also tend to inhibit general governmental efficiency. The tax calendar is such a factor in that it places the administrative cart before the fiscal horse by requiring city budgets to be fixed and expenditures to be made before tax rates are set and operating funds are available.
11. In terms of tradition, Massachusetts assessors have developed a variety of methods for assessing property which have led to a kind of informal de facto classification system which clearly runs contrary to the Commonwealth Constitution.
12. Recent court decisions indicate that there is a definite trend of legal precedent which de-emphasizes the full fair cash value as a basis for assessment, and emphasizes fractional valuations--provided that uniform and equitable ratios are maintained among all properties.
13. There is no equity in Boston under the current system of assessments, abatements, and exemptions. This system has contributed significantly to the erosion of Boston's tax base.
14. It is imperative that the highest professional and administrative standards be adopted and upheld by the Boston Assessing Department, and that it be operated with the utmost efficiency, utilizing the most advanced techniques known.

Summary of Recommendations

1. The City of Boston should seek new sources of revenue to relieve the burden on property taxes. The most likely local taxes for this purpose are sales and income taxes.
2. The City of Boston should encourage more intensive and better utilization of its land, including the greater use of air-rights over public (and private) rights-of-way.
3. The City of Boston should consider greater use of land service taxes or service charges as a means for obtaining added revenues from exempt properties.
4. Research should be conducted to develop the economic data needed to determine a pricing formula for costing municipal services, which also can be used to negotiate improved in-lieu payments.
5. The City of Boston should seek further improvements in the new fiscal year cycle in order to encourage the prompt payment of taxes so as to avoid borrowing in anticipation of taxes. Earlier notification of state revenue estimates also should be sought.

Boston's Tax Structure

Ad valorem taxes traditionally have been the revenue mainstay for municipal government in the City of Boston, and continue to be so today at a time when the trend nationally is to acknowledge the inadequacy of these taxes and to look to other sources for revenue.

Some 65 to 70% of total municipal revenues in Boston come from ad valorem taxation, whereas the average for the nation's cities is less than 50%. Although ad valorem taxes remain generally the most important single source of revenue for most American municipalities, no other city the size of Boston relies so heavily on these taxes to finance local government.

A recent report by the United States Census Bureau bears this out.¹ In a survey of the nation's 43 largest cities, the Census Bureau found that in addition to property taxes these municipalities are financing themselves primarily from three other local tax sources:

- (1) Utility Taxes (33 Cities);
- (2) General Sales and Gross Receipts Taxes (17 Cities);
- (3) Income Taxes (13 Cities).

The productivity of these local taxes is in inverse relationship to their popularity, with income taxes producing nearly \$1 billion in 1968-1969, general sales taxes generating about \$800 million, and utility taxes slightly more than \$200 million. With another \$250 million being raised by

1--U.S. Bureau of the Census, City Government Finances, 1968-1969. See Appendix I. Only Boston, Milwaukee, and Indianapolis failed to tap at least one of these revenue sources, while New York and Washington utilized all three, and another 19 cities used at least two.

other selective sales and gross receipts taxes, this means that a total of \$2.25 billion was generated from these sources, which is to say that they produced 55% as much in taxes for the nation's major cities during 1968-1969 as did the nearly \$4 billion raised by property taxes.

A few major cities such as Nashville, Jacksonville, and Indianapolis, have merged with their counties enabling them to consolidate their inner city and suburban resources. While these mergers generally are viewed and evaluated in terms of political or administrative benefits, the fact is that they also are fiscally significant and economically motivated. In effect, such mergers vastly broaden municipal tax bases and revenue resources. Despite this, business and industrial decentralization, and the flight of upper economic classes to the suburbs, continue to be significant factors which are contributing to the financial crises that are plaguing the nation's major cities today.

These demographic and economic patterns, which have had their greatest impact since World War II, account for the fact that local sales and income taxes have become "popular" only in the past 25 years. Furthermore, unless there is a major movement toward the merger of central cities with their suburbs, it is likely that the combined revenues from income and sales taxes will outstrip the revenue from property taxes in the nation's core cities sometime during the 1970's or the 1980's.

In another survey bearing on these matters, the Dallas Chamber of Commerce compared ad valorem taxes on a typical \$20,000 home in 55 of the nation's cities. An analysis of these figures reveals that of the 20

largest cities, 12 have a local sales tax, seven have an income or wage tax, and two have both.²

As was the case in the Census Bureau survey two years earlier, the Dallas report revealed that the same three major cities--Boston, Indianapolis and Milwaukee--continue to be without either sales or income taxes at the local level. As might be expected, the Dallas report also revealed that it is in these same three cities, plus Philadelphia and New York, that property taxes are highest:

TABLE 1

Property Tax on \$20,000 Home

1. Boston	\$1,056
2. Philadelphia	895
3. Milwaukee	870
4. Indianapolis	813
5. New York City	800

In no other of the nation's 20 largest cities did the property tax on a \$20,000 home exceed \$600.

The impact of a more or less rigid, local ad valorem-oriented tax system, can be seen in a comparative analysis of Boston taxable valuations versus property tax rates in the past 50 years.

While property valuations have remained more or less stable, with the exception of the boom and bust spirals of the 1920's and the 1930's, total

2--Dallas Chamber of Commerce Economic Development and Research Department, U.S. Cities Ad Valorem Tax Study: A Survey of U.S. Cities with 25,000 or More Population, Dallas, 1971. Washington, D.C., is excluded from our analysis because of its unusual tax structure and Columbus, Ohio is added in its place. Cleveland did not respond to the Dallas survey but is known to have a city income tax.

valuation has risen only \$45 million in the period 1920-1970, or from \$1,572,000,000 in 1920 to \$1,617,000,000 in 1970--and it is still some \$355 million less than the peak of \$1,972,000,000 reached in 1930.³ At the same time, the Boston property tax rate has soared astronomically--from \$24.10 per \$1,000 of valuation in 1920 to \$156.80 per \$1,000 in 1970.⁴

Stated another way, property valuations, on the average, have risen only 4% in the past 50 years, while the Boston tax rate has climbed some 650% in the same period!

Meanwhile, such factors as inflation, the impact of collective bargaining on municipal personnel costs, citizen demands for new or escalated public services, and the necessity for expanding essential services to keep pace with the current construction boom in Boston, all tend to encourage the trend toward higher and higher municipal budgets, even when the most stringent economies are practiced. This is a trend, of course, that is by no means unique to the City of Boston. It reflects, in part, a basic change in the American public's concept of urban government as a socio-economic problem-solver, as well as a vehicle for the development and maintenance of a widening range of public services.

Whatever the causes, the effect of spiraling costs for municipal government in Boston is an escalation of demand on an already inadequate and overburdened ad valorem tax base and fiscal system.

3--See Chart I, page 15.

4--See Chart II, page 16.

This condition becomes even more grave when we consider the well known fact that property taxes are not particularly responsive to changes in a local economy. Since the ad valorem tax is a levy on land and its improvements, any real growth in the property tax base essentially is dependent upon:

- (1) the development of vacant land,
- (2) the redevelopment or upgrading of properties already on the land or
- (3) acquisition, through annexation or consolidation, of already populated and developed land areas as a means for broadening the tax/revenue base.

Where a public is not ready for, or opposes, the kind of political action required to incorporate new revenue-producing lands and properties into a municipality (e.g., through annexation or consolidation), internal economic growth and development must keep pace with the costs of local government to hold down tax rates to acceptable maximums. When this does not occur, a vicious fiscal circle evolves, discouraging economic growth and property redevelopment, encouraging blight and declining land values, and forcing the tax rate continually higher to generate necessary revenues from the ad valorem base. Under such circumstances, the tax base naturally will tend to diminish in value.

Looking again at Charts I and II, it is apparent that to some extent, in terms of the declining value of the dollar over the past 50 years, the City of Boston's property tax base has actually shrunk despite the gains of the past ten years during which valuations have increased by approximately \$200 million. In this context, the burden on the property-owner can be illustrated more dramatically by noting that for every dollar of

taxes paid on a piece of local property 50 years ago, the owner now could be paying as much as \$650.00!

Hemmed in by suburbs and bedroom communities where many thousands of people reside who work in the city (but contribute little directly to its fiscal well-being), Boston is required to finance and maintain services and facilities far in excess of its own population needs. Denied room for growth by inflexible municipal jurisdictions, and restricted to a property base which cannot be expanded physically, the City of Boston carries a tax load which is intolerable and which can only be made endurable through more efficient utilization and continuing redevelopment of the existing property tax base.

Obviously, relief is needed. And it is generally recognized that Boston must find new revenue sources to spread the tax burden more equitably and to prevent a recession that could be triggered by further increases in the ad valorem tax rate.

The Massachusetts Special Commission to Develop a Master Tax Plan reported that in 1971 property taxes generated approximately 54% of state and local revenues in the Commonwealth. The commission observed, in this context, that " . . . the burden of the (property) tax is excessive" and that "it is the most regressive tax of all those in the entire tax structure and a real deterrent to economic expansion."⁵

The commission's priority recommendation, in its first interim report, was that no more than 42% of the revenues be derived from the property tax, and

5--Senate Bill No. 1298: First Interim Report of the Special Commission to Develop A Master Tax Plan. Tentative Proposals for A Master Tax Plan for the Commonwealth, February, 1971, page 10.

that additional required revenues be generated from such other sources as personal, consumer, and transaction taxes.⁶ The commission also proposed a new approach to ad valorem taxation, whereby the state would levy the bulk of the property taxes with the proceeds to be credited to the state General Fund along with all other taxes and revenues not earmarked for specific purposes. The General Fund would then be used both to finance state expenditures and for redistribution to the cities and towns. The local portion of the ad valorem tax would become essentially a land tax and under the commission's proposal most exempt properties would also pay this tax on the value of land but not of buildings.

However, the property tax is a residual tax at the local level; that is, a tax determined for the purpose of meeting the balance of a community's revenue requirements after all other income sources have been tapped. Therefore, if the commission's proposals are adopted essentially as outlined, and a percentage ceiling is placed on the property tax, then that levy no longer will be residual in nature.

It is not now clear whether the maximum percentage limitation proposal is intended for application only at the state level, or whether it is meant to apply to property taxes at city and town levels as well. At one point the commission report states " . . . the state property tax would be set annually at a rate which when combined with the local tax, would yield approximately 42% of all revenue." However, a few paragraphs earlier the report explained that "the local property tax would be the amount required,

6--Ibid., 11ff.

after local nontax revenues and federal aid, to finance the remainder of the cost of local government not covered by distributions of local aid."⁷

If a limitation is indeed intended to apply at local levels then it will be necessary to find another revenue source sufficiently flexible to replace the ad valorem levy for residual purposes. On the other hand, if the limitation is not intended to apply locally, and the ad valorem tax is to remain residual in nature, then reliance on this source of revenue most likely will remain proportionately higher in Boston and other major communities than at the state level or in other communities at large. Since this latter is more likely to be the case, whatever the fate of the Master Tax Plan, the property tax undoubtedly will remain the bulwark of Boston's tax/revenue system in the future.

It is significant that Mayor Kevin H. White's Home Rule Commission has recognized the evils and dangers inherent in Boston's undue reliance on property as a municipal revenue source.⁸

"The need for substantial property tax relief is apparent," the Home Rule Commission stated in a recent report, noting that "the inability of Boston city government to deal effectively with urban problems stems from much more than structural inadequacies; the lack of a solid financial base is the most serious problem facing the city."⁹

Accordingly, the Home Rule Commission considered four possible methods for increasing municipal revenues: (1) more extensive use of existing

7--Ibid., 17.

8--Final Report of the Home Rule Commission, City of Boston, April, 1971, page 110

9--Ibid., 95.

revenue sources, (2) federal revenue sharing, (3) new local taxes, and (4) increased state aid. Although the first two methods appear to be insufficient for substantial relief in terms of their revenue potential, the Home Rule Commission endorsed and recommended them. The commission also endorsed the third method, in the form of new local taxes, but only if the fourth alternative, a massive increase in state aid, is not forthcoming.¹⁰

But regardless of the options or alternatives available to Boston--both for generating revenue from new sources, or for better utilizing existing sources--it is apparent that the property tax will remain a major element in the city's fiscal structure. Consequently, Boston's ability to meet its municipal obligations and to maintain a viable government in future years will be determined, to a great extent, by how effectively the city's Assessing Department functions. Simply stated, this means that the assessing function must be performed with the utmost efficiency, utilizing the most modern techniques possible.

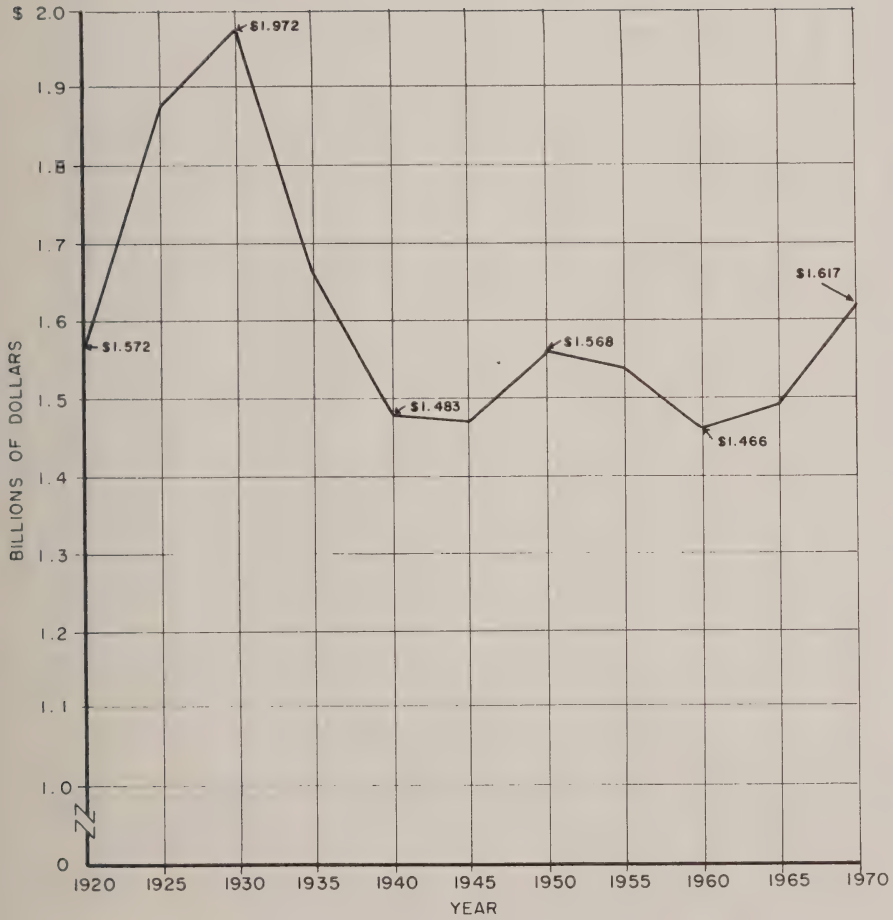
We do not feel, however, that good assessing practices in themselves can completely redeem a tax/revenue system like Boston's which is so heavily keyed to property and which, over the years, has developed special problems which limit the city's ability to make equitable valuations or to impose assessments with routinely functional efficiency. These problems include an extremely rigid interpretation at the state level of what is meant by "full fair cash value"; a confusing welter of personal and institutional exemptions; a tax calendar which inhibits effective administration of the property

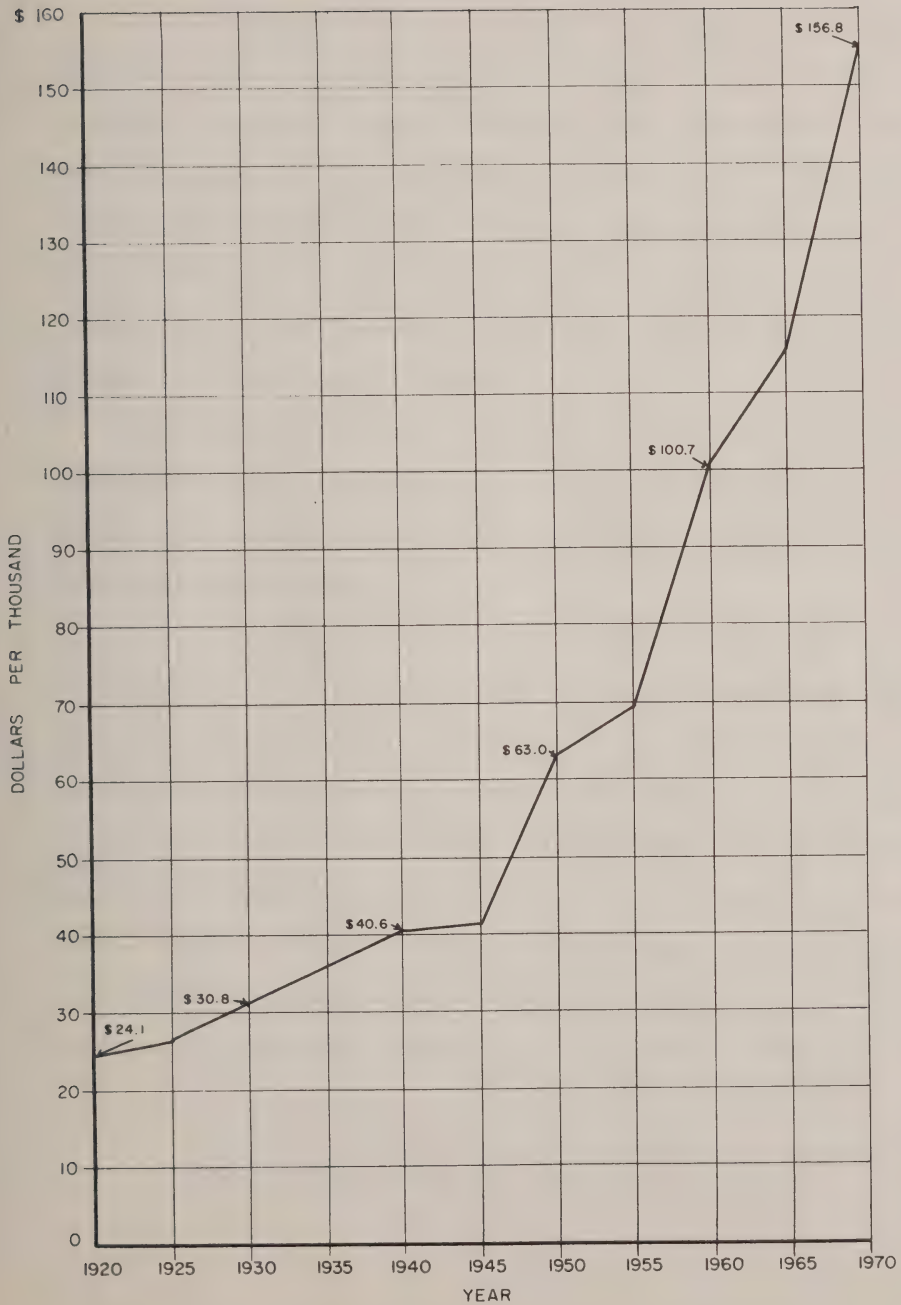
10--Ibid., 99-112.

tax; and an increasing array of federal, state, and local laws or regulations which limit property valuations and/or the taxes that may be imposed in connection with various housing and building programs.

Since these problems make such a significant impact on the city's fiscal well-being, some elaboration is necessary.

CITY OF BOSTON
TAXABLE VALUES



CITY OF BOSTONTAX RATES

Legal Constraints and Interpretations

In 1970 Massachusetts voters defeated a proposed constitutional amendment which would have permitted the classification of property for assessment purposes. Numerous exemptions, both personal and institutional, have the consent of law and, more significantly, the force of long-standing tradition behind them, however. These exemptions and/or abatements, taken together, have severely eroded the property tax base. In recent years further inroads have been made in the tax base by urban renewal and redevelopment programs.

As a matter of practice, the assessors of Massachusetts have developed a variety of methods for assessing property which have led to a kind of informal, de facto classification which clearly runs contrary to the state constitution.

It is fairly commonly known that one-to-four family residences tend to be assessed at smaller percentages of value than apartment buildings or commercial and industrial properties.¹¹ And, with the advent of a state urban redevelopment law which has the effect of forcing communities to subsidize certain forms of property development and new construction by granting tax exemptions, and the acceleration of federal building programs which require a relaxation of property tax burdens, assessors have been pressured to make similar tax or valuation concessions on building projects which do not fall within the purview of such state or federal programs.

11 --In Boston, apartment buildings generally are classified as those structures with five or more family units.

Thus, the rigidity of the laws, coupled with numerous exceptions and exemptions, has led to an extra-legal classification structure and a form of discrimination which differentiates between those properties and property-owners unable to claim exemptions and those which can.

Yet the constitution and laws of the Commonwealth of Massachusetts provide that property must be assessed at full fair cash value, and that taxes on property must be proportional.¹² State courts have held that homestead exemptions are unconstitutional, and recently, in a number of taxpayers' suits, the courts have upheld the provision that properties of all types must be assessed equally and proportionately.

In the past taxpayers could seek abatements only when they could demonstrate that the assessed values were in excess of the full fair cash value of their properties.¹³ In the Springfield case the courts insisted on the use of full fair cash value for all property rather than differing percentages of value for differing classes of property.¹⁴ Later, in the Leto,¹⁵ Framingham,¹⁶ and Somerville cases,¹⁷ the courts acknowledged the fact that the failure to use full fair cash value as a basis for assessment was illegal, but they also insisted that if fractional valuations were used by local assessors, all assessed valuations would have to bear the same ratios of assessed valuation to full fair cash value.

12--Constitution of the Commonwealth, Part II, Gl, Sl, Art. 4; and Declaration of Rights, Art. 10; also Gl: c59, s38 and 52.

13--Lowell v. County Commissioners of Middlesex, 152 Mass. 327.

14--Bettigole v. Assessors of Springfield, 343 Mass. 223.

15--Leto v. Assessors of Wilmington, 348 Mass. 144.

16--Shoppers' World, Inc., v. Board of Assessors of Framingham, 348 Mass. 366.

17--First National Stores, Inc., v. Board of Assessors of Somerville, 265 N.E. 2d 845.

This position reflects a fundamental and far-reaching change in the legal posture affecting assessment practices, and takes precedence from recent interpretations of the 14th Amendment to the Constitution of the United States, from interpretations of the Constitution of the Commonwealth of Massachusetts, and from such decisions as rendered in the Sioux City Bridge case.¹⁸

The thrust of these interpretations and decisions appears to be toward requiring the use of uniform percentages of full fair cash value for all classes of property. For example, all real estate and local taxable personalty must be valued for assessment purposes at the same percentage of full fair cash value. The most recent court decision in support of this judicial trend requiring equal treatment, is the Somerville case.¹⁹

The implication for Boston is critical. Failure to analyze assessments with assessment-sales-ratio studies, and failure to attain constant ratios, can only mean an increasing succession of court actions which ultimately could lead to establishment of a standard assessment ratio by court edict.²⁰

18--Sioux City Bridge Co., v. Dakota County, Nebraska, 260 U.S. 441.

19--First National Stores, Inc., v. Board of Assessors of Somerville, op.cit..

20--The most recent case in this class was filed on April 12, 1971: See Underwood et. al., v. Commissioners of Assessing, et. al., of such a court decree requiring a city to revalue. See Cohen et. al., v. Board of Assessors of Beverly, 349 Mass. 575. For a definitive review of this entire subject, see Appendix II.

Exemptions and Land Service Charges

The value of tax exempt properties in the City of Boston has risen astronomically in the past decade--from \$890 million in 1961 to \$1.725 billion in 1970. By comparison, taxable property grew only from \$1.337 billion to \$1.617 billion in the same period.

The significance of these figures is appalling in terms of Boston's property-based fiscal structure. While the tax base was increasing 7% and exempt property values were rising by 48% in the five years from 1965 through 1969, the cost of delivering municipal services rose 24.3%--from \$315 million to \$392 million! Such a disproportionate increase in government costs as they relate to the tax base which supports them, is alarming. So, too, is the fact that more than half, or approximately 52% of the city's potential property tax base contributes little or no revenue and is largely unproductive in terms of municipal financing. This means, in effect, that the bulk of the municipal ad valorem burden is being carried by only 48% of the city's properties and property-owners. Furthermore, these figures apply only to the property of exempt institutions which never appear on the tax rolls and do not include the millions of dollars worth of property which is abated each year due to personal exemptions. (See Table 2, following page.)

The implication is clear in terms of equity. Under such a system there can be no equity. This is obvious when we consider that tax exempt properties and their occupants obtain the same urban services as taxable properties, and those who are taxed disproportionately are, in effect, subsidizing those individuals and organizations who are exempt.

Clearly, the dramatic increase in the value of tax exempt properties in Boston has contributed significantly to the soaring city property tax rate. In the period of 1960-1970, when the value of tax exempt properties was rising by 96%, Boston's property tax rate rose from \$100.7 to \$156.8 per \$1,000 of assessed valuation--an increase of more than 56% in a single decade.²¹

TABLE 2

Valuation of Land and ImprovementsFor the City of Boston

<u>Year</u>	<u>Value of Land and Improvements</u> (Millions of Dollars)			<u>Exempt Property As a Percentage of Total</u>
	<u>Exempt</u>	<u>Taxable</u>	<u>Total</u>	
1970	\$1,725	\$1,617	\$3,342	51.6%
1969	1,562	1,447	3,009	51.9
1968	1,268	1,424	2,692	47.1
1967	1,198	1,388	2,586	46.3
1966	1,118	1,368	2,486	44.9
1965	1,054	1,352	2,406	43.8
1964	990	1,324	2,314	42.8
1963	967	1,310	2,277	42.5
1962	917	1,323	2,240	40.9
1961	890	1,337	2,227	39.9
1960	876	1,337	2,213	39.6

These conclusions must be modified somewhat by the fact that assessing departments universally find it difficult to justify their expenditures of the same time and care in valuing properties which will produce no revenue

21--See Chart II, page 16.

return as they do in valuing taxable properties. Therefore, valuations of exempt properties may not be too meaningful. They could even be conservative.

It should be noted, moreover, that some \$750 million of exempt property is municipally owned. Furthermore, the impact of other exempt educational, medical, social and cultural institutions and organizations on the Boston economy, and their contribution to the municipal standard of living, must be considered and evaluated as well as their value in terms of their potential worth as ad valorem revenue producers.

Broadly speaking, exempt properties can be classified in three categories: (1) property owned by the city itself, (2) property owned by other governments, and (3) property owned by educational, religious, and eleemosynary institutions. A variety of other exemptions were also defined in a recent study.²² These exemptions relate to real or personal property taxation in the form of fixed amounts which are deducted from assessed valuations. These statutory exemptions, identified administratively as "clause abatements," are as follows:²³

1. \$2,000 for widows and minors without a father. The property owner must occupy the parcel as domicile. Real and personal property must not exceed \$8,000 in value (Clause 17).
2. \$2,000 for disabled veterans with an additional \$2,000 for the spouse, provided the following conditions are met (Clause 22):
 - (a) 10% disability;
 - (b) The veteran must have resided in Boston at least six months before entering the service;

22--Concord Research Corporation, "Data Processing System Study of the Assessing Department of the City of Boston," 1970.

23--GL: c59, s5.

- (c) The veteran must have resided in Boston at least five years before applying for the abatement;
 - (d) The veteran must be domiciled at the location for which the taxes are to be abated;
 - (e) Veterans of the Spanish, Philippine, and Chinese actions are eligible notwithstanding (a) above; also those holding the Purple Heart;
 - (f) Wives or widows of eligible veterans are eligible;
 - (g) Fathers and mothers of veterans who lost their lives (maximum of \$2,000 between them);
 - (h) Certain widows of World War I veterans who held the Victory Medal;
 - (i) Various other amounts for specific disabilities as specified in sections of Clause 22.
3. \$5,000 exemption of taxable value on personal property for all individuals in the city. Clothes, farm utensils, cash, and tools of trade are exempt in any amount (Clause 20).
 4. For elderly persons (over 70) who reside at the address where the tax is to be abated, based on residency requirement (Clause 41).
 5. An abatement for the legally blind (Clause 37).
 6. For those unable to pay because of poverty, an abatement which acts to create a lien on the property (Clause 18).
 7. An abatement for widows of Boston policemen or firemen (Clauses 42 and 43).

The value of exempt property is not the only important factor in terms of the land and its uses for municipal purposes. Perhaps even more significant is the amount of available land so classified. (See Table 3, following page.)

Geographically, the City of Boston is not large, having an area of 47.81 square miles. Moreover, land is a relatively fixed asset which is not likely to exhibit any marked growth.

TABLE 3

Change in Value
And Land Area of Exempt Property²⁴1965 - 1969

	Value of Exempt Property (\$000,000)	Change From Previous Year (%)	Square Feet Of Land Area For Exempt Property (000)	Change From Previous Year (%)
1965	\$1,054	---	507,226	---
1966	1,118	5.8	507,893	.2
1967	1,198	6.7	515,843	1.6
1968	1,268	5.6	521,289	1.1
1969	1,568	19.2	534,789	2.6
<u>Total Change</u> <u>1965 - 1969:</u>		32.8		5.2

Boston, of course, has grown over the past 340 years, but its growth has been extremely sporadic. East Boston was added to the city in 1636. And it wasn't until 1804--168 years later--that the next annexation took place with the addition of South Boston. Another 63 years passed before Roxbury was added; and in 1874 the city absorbed Brighton, Charlestown, Jamaica Plain, Roslindale, and West Roxbury. Finally, in 1912, 38 years later, Hyde Park was annexed and with addition of the U. S. Pierhead Line, Boston's growth was complete.²⁵

Thus, in the seven-year period between 1867 and 1874, Boston grew by 29.9 square miles, or some 62% of its present total area. But 59 years have passed since the last annexation, and unless there is a fundamental

24--Does not include land utilized for streets, highways, and other public rights-of-way.

25--Report of the Boston Auditing Department, 1967, Page 116.

change in state laws and in the attitude of the people of the metropolitan area, it does not seem likely that Boston will expand its land base appreciably.

It is significant in this respect that while the value of exempt property has risen by 96% in the period 1960-1970, the amount of available land occupied by such properties has increased by only 15%. According to figures taken from the annual reports of the city's assessors, there were approximately 17.7 square miles in exempt property in 1960, and about 20.1 square miles in 1970, an increase of 2.4 square miles.

However, these figures do not take into account the amount of land used for streets and alleys. According to the Public Works Department, Boston had 759 miles of these thoroughfares in 1962, the latest year for which figures are available. Most of the rights-of-way for these streets are 40 feet wide, although some alleys are as narrow as eight feet and some streets range to 100 feet or more in width. Assuming the average width to be 40 feet, this means that approximately 5.7 square miles of land are utilized in Boston for streets, highways, and alleys--a figure that may well be on the low side since it is a conservative estimate at best and does not take into account relatively recent street and highway developments.

It may be said, therefore, that the total land not producing revenue for tax purposes actually was about 23.4 square miles, or 49% of available city land in 1960, as compared to about 25.8 square miles and 54% in 1970. Clearly, the percentage of available land which is exempt from taxation is even greater than the percentage of the value placed on that land when streets and alleys are included.



In a community where the property tax provides 65% of available revenues, this is indeed a serious matter.

If we accept the premise that little additional land is likely to be created (some land, of course, can be created by filling in waterfront areas), and if the property tax remains the mainstay of Boston's financial base--as it is believed likely to be--then the city must encourage more intensive and better utilization of its land. In this respect, perhaps the only direction for development is up. Consequently, the city ought to look seriously at the use of air rights over public rights-of-way. In effect, this has been done for many years in terms of subway development, and more recently in respect to various streets and highways, but there is no reason that air space over such public rights-of-way could not be utilized more extensively for other municipal or commercial purposes.

In considering the ownership of exempt properties, it is important to make a distinction between public and private exempt institutions. The Massachusetts Taxpayers Foundation recently completed a study of institutional exemptions in the Commonwealth which reveals that cities and towns are the largest holders of tax exempt property in the state.²⁶

Within the public sector, the value of exempt land and improvements is made up of the following types of property:

- (1) Property owned by the United States of America;
- (2) Property owned by the Commonwealth of Massachusetts; and
- (3) Property owned by the City of Boston.

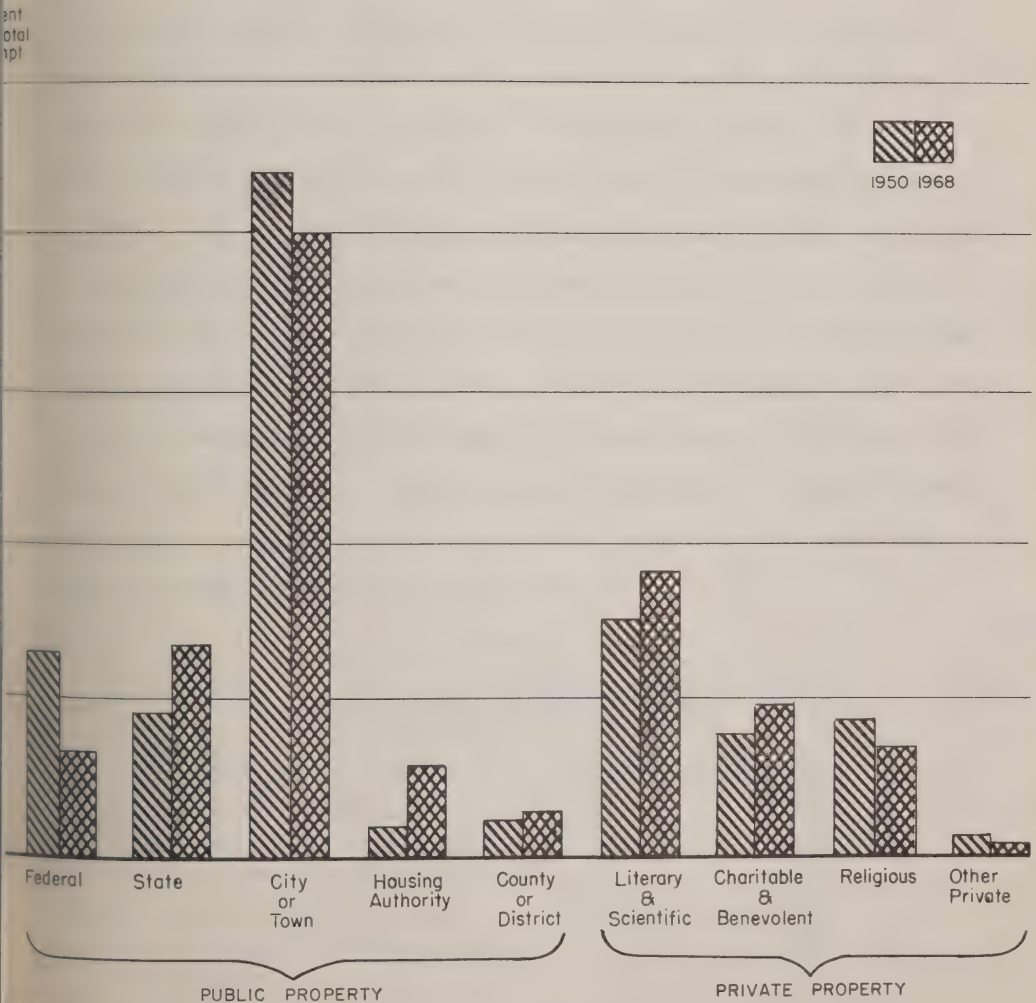
26--See Chart III, page 27, from Institutional Property Tax Exemptions in Massachusetts, Massachusetts Taxpayers Foundation, Boston, 1971.

PERCENTAGE DISTRIBUTION OF TOTAL EXEMPT

REAL AND PERSONAL PROPERTY VALUATION

IN MASSACHUSETTS BY MAJOR CATEGORY:

1950 and 1968



Source:

Massachusetts Taxpayers Foundation, Inc.

15 Tremont Street,

Boston, Massachusetts 02111

January 1971

In contrast, private exempt property is made up primarily of the following:

- (1) Property owned by literary organizations, including private schools;
- (2) Property owned by scientific organizations;
- (3) Property owned by charitable and benevolent organizations, and
- (4) Property owned by religious organizations, including houses of worship.

Having drawn these distinctions, it is important to note that the value of all exempt land and improvements attributed to public bodies within the City of Boston amounted to 77.3% of total exempt value in 1960. By 1969, the public sector had increased its percentage of total to 79.6%. Table 4 (below) illustrates the percentage of value attributed to each category of exempt property in Boston during the period 1960 to 1969. As can be seen, public sector holdings of the U. S. Government and the City of Boston decreased during this period. A substantial gain, however, was realized by the Commonwealth of Massachusetts; but within the private sector there was a reduction in all categories of exempt property. For example, exempt literary and scientific properties were down from 6.5% of the total in 1960 to 6.1% in 1969.

Table 4

Distribution of Exempt Property
In Boston by Category, 1960 and 1969

<u>Category of Exempt Property</u>	<u>Percentage of Total</u>	
	<u>1960</u>	<u>1969</u>
United States of America	6.4%	4.0%
Commonwealth of Massachusetts	36.4	42.3
City of Boston	34.5	33.3
Literary and Scientific	6.5	6.1
Charitable and Benevolent	4.1	3.9
Religious	3.0	2.7
Cemeteries	7.5	6.1
Other	1.6	1.4

When we consider that both exempt and taxable properties are beneficiaries of municipal services, it becomes understandable why municipalities feel compelled to find ways of tapping their exempt properties to draw on the "lost resources" they represent. This is particularly true in the City of Boston where there is a major reliance on the property tax accompanied by an uncommonly large percentage of tax exempt property. In fact, there probably is no other major city in the nation where this unfortunate combination of factors is so extreme or where the need for finding relief is so imperative. Yet Boston does not have access to income and sales taxes, which fall on the person rather than on property, and to which most other major American cities are turning as the logical solutions for similar problems.

The City of Boston does have one revenue option, however, which has been largely ignored. This is the land service tax or the land service charge.²⁷

Land service taxes or charges generally are regarded as those payments which can be made for services which are related primarily to the land and its improvements, rather than to the people of the community. Some municipal services can be related readily to one or the other, but most fall into that gray area wherein the service is both land- and people-oriented. Public education, for example, clearly is people-oriented, but other services such as sewerage, fire protection, and refuse collection and disposal, are far more property-oriented. That is, they tend to maintain or enhance

27--Currently, Boston does have a sewer service charge. However, at present, sewer service charge collections do not cover the complete cost of sewer service.

the value of property in and of themselves. It is not unreasonable, therefore, to levy taxes or charges for those services which benefit the land and which tend to enhance its value. Public improvements such as new streets and sidewalks, water lines and sewerage, commonly are assessed to the property benefited. It is less common to charge for the service of maintaining the improvement once it is installed, or the service, once it is initiated. But some communities do charge the benefited land for street cleaning, weed control, snow removal, etc. Sewer service charges tied to water consumption are becoming increasingly popular.

Although land service taxes and land service charges (the latter commonly known as service charges) are similar, it is important to recognize that there is a fundamental difference between them. This is that a tax always is mandatory where a service charge at least implies the option of avoiding or refusing the service offered. By the same token, the supplier or the service can refuse to supply it unless the charge is paid. This does not necessarily mean that the owner of a property for which a service is offered and a charge made, can escape the obligation of obtaining that service altogether. It does mean that he can exercise a preference as to who supplies that service or he may provide it for himself if the law permits. Weed control often is handled in this manner: the property owner is obliged to keep a vacant lot free of weeds, but if he does not do so, the city will clear the lot and bill the owner for the service.

Bearing these distinctions in mind, it can be seen that some services are amenable to land service taxes but not to service charges. Fire

protection is a good example. Since this service basically is property-oriented, a land service tax based on the value of the property could be imposed. However, there also is a broader community interest involved in fire protection, and no community could afford to give a property owner the option of subscribing or not subscribing to this service. A service charge, therefore, would be impractical.

Significantly, neither the land service tax nor the service charge would tap the biggest owner of exempt property--the city itself. It would make little sense for the city to tax itself for properties used for municipal purposes in any event, since this would amount to no more than taking money out of one pocket and putting it into another. On the other hand, city owned property which is of a proprietary nature and which produces income, such as certain park and recreational facilities, can provide revenue.

With respect to property owned by other governmental units, for example, the United States Government, the Commonwealth of Massachusetts, and various district governmental entities, it is a well-established principle that one government does not tax another. However, while such properties are not taxed, there are instances where other governments make payments to a municipality in lieu of taxes. But such payments usually are far below the return which would accrue to the city if the same properties were subject to the full property tax, and there is no reason why they should not pay charges of one kind or another for services which are clearly rendered to them by the municipality.

A case can be made for imposing a land service tax or service charge on exempt property. However, unless the superior levels of government--the Commonwealth and the U.S. Government--agreed to pay, or unless the city could terminate the service for nonpayment, the burden of such a tax or charge would fall on the educational, religious and eleemosynary institutions. In any case, this is an alternative which the City of Boston must consider. And it is an alternative which the Boston Home Rule Commission recommends reluctantly, and then only if additional state aid based on tax exempt valuations cannot be obtained.

The Commission to Develop A Master Tax Plan has proposed yet another alternative in the form of a basic minimum levy on the land of all exempt institutions.²⁸ But the Boston Home Rule Commission opposes this suggestion on the ground that since the state grants these exemptions it should reimburse local communities for lost revenues.²⁹

Since it is private and not public exempt properties which would, in all likelihood, bear the brunt of any land service taxes which might be assessed, the successful imposition of such taxes would not have a dramatic impact in terms of a broadening of the property tax base or a reduction in the property tax rate. This certainly has been the experience of other jurisdictions (e.g., Maryland, West Virginia and California) which have imposed land service charges successfully but which have not dramatically improved financial performance in municipalities.

Therefore, in discussing the imposition of land service taxes, it must be recognized that we are attempting to narrow a statutory exemption.

28--Op. Cit., First Interim Report, 18.

29--Op. Cit., Final Report, 112.

This may be reasonable, for some of the important arguments in support of complete exemption no longer are valid. The quaint, private educational facilities that originally received legislative protection have grown into large land-holding corporations. However, before asking these corporations to pay a land service tax, it is important to understand the legal and economic context in which the question will be resolved.

There are two ways by which the City of Boston could institute a system of assessments for services to land.³⁰ First, the city could assess tax exempt institutions for the amount of municipal services they consume under present law. Second, the city could seek more explicit legislation for service assessments, which would also serve to resolve many pertinent questions which are unclear under present law. In either case, the city would have to be able to devise sound economic methods for assessing the costs of such municipal services.

Massachusetts law governing special assessments as presently formulated permits charges for both improvements and for the following categories of public services:

- (1) Street, sidewalk and sewer construction
- (2) Street watering
- (3) Street maintenance
- (4) Snow removal
- (5) Parks construction and maintenance
- (6) Swamp drainage
- (7) Certain rail and rapid transit improvements

As indicated above, a constitutional land service tax requires a reasonable assessment or pricing mechanism. This principle governs the

30--Richard C. Smith, "Legal Acceptability of a System of Service Assessments for the City of Boston," thesis in fulfillment of Harvard Law School third year requirements. This paper describes the legal basis for land service assessments used in this report.

Massachusetts law of special assessments and is present in all jurisdictions which have successfully required private exempt property to pay for selected municipal services. A sound pricing system must be based on the benefits received, and not on the value of the property.

In Massachusetts, assessments in excess of benefits are not permitted.³¹ Moreover, the property must receive a direct and peculiar benefit; but any reasonably well defined benefit is sufficient when the benefit is not calculated in reference to the value of the property. Therefore, even if exempt property valuations were reliable and valid, they would not be helpful in developing a formula to support assessments for services to land.

Since the economic data is not available to determine a pricing formula for land service assessments, it is recommended that the research required to develop such data be started. It is recognized that this may be expensive and time-consuming, but the cost and effort will be more than justified by returns if such a system is established. In any event, the data will be needed if Boston means to develop additional revenues from now exempt property. Furthermore, the development of such an economic model, which econometricians agree is feasible, will be less expensive if planned now than if originated by lawyers or legislators called upon to defend a hastily conceived system of assessments for land services. The immediate value of such an economic pricing model should also be noted in terms of negotiations for improved payments in-lieu of taxes from other governments and public corporations.

31--O'Malley v. Public Improvement Commission of Boston, 342 Mass. 624, 174 N.E., 2d 668 (1961).

In making the recommendation to develop an economic model for pricing the delivery of fire, refuse, street maintenance, and other land-related services, several factors were taken into consideration.

First, the acquisition of taxable properties by tax exempt institutions is not all bad, particularly if the land is not located in the city's high value areas.³² The development of the land, in such a case, is beneficial in that it tends to spur surrounding improvements and also bolsters the community economy.

Second, the development of private exempt property does not necessarily result in increased demands for property-related services. Through the use of sound land-use controls, new construction on exempt property often results in the installation of plazas, public parking, open space, and fire protection that relieves the municipality of providing these related services. The further use of such redevelopment controls is encouraged, and should be examined closely in the course of establishing a sound unit pricing system for the land service taxes.

Finally, the reduction of the tax base in Boston, measured by the percentage relationship between the value of exempt land and improvements and total value, can be influenced by the administration of the exemption statutes. The assessor for the City of Boston must determine whether a particular land use or organization is exempt from property taxes. Mere formation of a charitable corporation under Chapter 180 of the General Laws, does not mean exemption from real estate taxes. The assessor must

32--The recent decision to locate the University of Massachusetts campus at Columbia Point rather than Copley Square was a sensible decision from this standpoint.

make a determination that the organization is engaged in a charitable purpose, one that benefits an indefinite number of persons. The establishment of sound administrative standards and manuals can assure that the determination of charitable purpose will be uniform and equitable. Further, the application process must be strengthened to require the filing of necessary forms--the ABC form requested by the Department of Corporations and Taxation, and Form 12, to be submitted to the Office of the Attorney General.

The entire question of land service taxes, service charges, and payments in-lieu of taxes as a means for developing additional revenues from both public and private exempt institutions is extremely complex and worthy of study in greater detail than possible in this report.

In the final analysis, it is our opinion that such service assessments do offer the potential for greater revenues either directly or as a basis for negotiating more realistic approaches to in-lieu payments. However, while their implementation would make the property tax system more equitable, we do not feel that they have the potential for offering substantial relief from property taxes as such. (They are, after all, another form of extracting revenues based on property ownership.)

In the long run, if the City of Boston, as well as many other Massachusetts cities and towns, are determined to resolve the financial dilemmas confronting them by using their own resources, they will need the authority to tap revenue sources such as sales and income taxes which are proving their worth in other communities throughout the nation.

The Tax Calendar: A Fiscal Paradox

Beyond the handicaps inherent in the system of exemptions and property valuations that has developed over the years in Boston, the City Assessing Department is caught in a web of state and local laws, procedures and traditions which hamper its operational effectiveness and tend to inhibit general governmental efficiency as well.

A major factor, in this regard, is the tax calendar; that is, the timing and sequence of municipal fiscal processes whereby tax assessments and collections are scheduled and whereby their relationship to the city budget is determined.

Ideally, a tax calendar should be such that the assessing is completed, the budget is adopted, and the tax bills are distributed before the start of the fiscal year. Such a calendar would seem to be an administrative necessity, and fundamental in the preparation of a realistic and functional municipal budget incorporating logical and well-grounded priorities for expenditures on the basis of known revenue resources, as opposed to estimates.

Unfortunately, however, state laws and regulations prevent adoption of such a calendar in Boston, and consequently, the city's system of fiscal scheduling is far from ideal and will remain so until revisions in the current law become effective in 1972-1973.³³

Currently, the city's assessment date coincides with the beginning of the municipal fiscal year. The budget is not adopted until the year is in

33--Chapter 849, Acts of 1969; Chapter 194, Acts of 1970; and Senate Bill No. 1138 (1971), "An Act Making Corrective Changes in the Municipal Fiscal Cycle Act." For a comparison of current and 1972-1973 tax calendars, see pp. 43-45.

its second quarter. The tax rate usually is not determined until the year is more than half completed. Tax bills usually are sent out only after the fiscal year is two-thirds completed. Finally, property taxes are not collected until 10 months of the fiscal year have elapsed.

This is a tax calendar which places the administrative cart before the fiscal horse.

Such a poorly structured tax calendar has a number of adverse effects on Boston municipal finances. It necessitates needless and expensive short-term borrowing in anticipation of taxes, for example. In 1970 interest charges on money borrowed to operate the city government cost Boston taxpayers \$1.7 million. This is a sum that would have been sufficient, in 1971, to finance the operation of the Mayor's Office, the City Council, the City Clerk's Department, and the Election Department! It is also a sum equal to a one dollar reduction in the city tax rate per \$1,000 of assessed valuation.³⁴

Boston's current tax calendar makes it most difficult to plan a budget properly and to control departmental and administrative expenditures effectively. Furthermore, the impact on the assessing function is certain to be detrimental when a budget is adopted and funds are borrowed and spent to operate government months in advance of the assessment/collection function. Such a system tends to place the Commissioner of Assessing on the spot by presenting him, in a sense, with a fait accompli, as if the city were saying:

34--The burden of this needless expenditure is all the more onerous in light of Boston's net debt. This amounted to \$157,396,263.90 in 1968, requiring interest payments of \$18.8 millions. See City of Boston Finance Commission Annual Report to the Legislature for 1969, pp 26-31.

"Here is our budget and this is the amount of money we must have." In addition, this kind of system tends to subject the Assessing Department to administrative pressures which follow logically from the need to generate revenue to finance an operating budget already in effect and hold down losses incurred from short-term borrowing. It is not inconceivable that this could result in hasty and possibly erroneous valuations, which in turn could tend to discourage the kind of routine and widespread property revaluations which are necessary to maintain a viable tax base.

Under the current tax calendar it is virtually impossible for the assessor to comply with the law to establish the tax rate and distribute tax bills as scheduled by June 14. Tax rates can be established only after the budget is adopted and only after revenues from other than property sources are estimated or known.

While adoption of the city budget in April would give the Assessing Department sufficient time to establish the tax rate, this would remain difficult to do by virtue of the fact that revenue estimates from state aid do not arrive until May, and lists of state properties needed to calculate payments in-lieu of taxes are not forwarded to the State Treasurer until August.

Paradoxically, the law itself implicitly condones its violation by local officials in terms of abatements and deficit financing. For example, while the law requires that tax bills be sent out by June 14, and that taxes become payable on July 1, the taxes do not become delinquent until November 1 and taxpayers may apply for abatements until October 1. In addition, the law also provides that if tax bills are sent out after September 1, a

taxpayer has 30 days from the time the tax bills are sent out in which to make application for abatement. The ultimate effect of such contradictory provisions is obvious. Perhaps not quite as obvious is the cost in terms of tax dollars.

Deficit financing has been expensive to the City of Boston over the years. The 1969 report of the Finance Commission noted that in the 10 year period from 1959 through 1968, the city spent nearly \$4.7 million for short-term loans in anticipation of tax revenues.³⁵ In 1970 it was much worse, when the city borrowed some \$85 million at a cost of nearly \$1.7 million in interest charges. Even though interest rates are somewhat lower in 1971, the total amount to be borrowed is anticipated to be greater, and the 1971 cost of interest may well exceed the 1970 figure.³⁶

The payment of taxes in installments has been recommended by the Finance Commission for a number of years. This would be desirable, particularly if the first payment became due, payable, and delinquent on the first day of the calendar year. Current law to change the fiscal year from January 1 to July 1 will help in this regard, but only if other portions of the tax calendar are tailored to provide for the proper and timely sequence of events in assessing, budgeting, and the collection of taxes.³⁷

The law is scheduled to take effect in 1972-1973 and at that time taxes will be collected in two installments. However, while the first payment will be due on July 1, as indeed is now the law for the entire tax,

35--Op. cit., Finance Commission Annual Report, 1969. Later figures are from various unpublished municipal records.

36--In May, 1971 the Mayor requested \$125 million in short-term borrowing and the City Council approved \$100 million.

37--Op. cit., Senate Bill No. 1138 (1971).

the payment of those taxes will not become delinquent until November 1. The taxpayer still will have considerable incentive to delay payment until October 31, and the city will have little incentive to bill before September 1. While the city will save on six months of borrowing, it still will be faced with the necessity to borrow for the first four months of the fiscal year.

The second tax installment will be due and payable on January 1, but the payment of this installment will not become delinquent until May 1. Therefore, if the amounts collected on the first installment, together with the revenues from other sources are not sufficient to operate the government and also repay interest and principal on short-term monies borrowed to finance the municipality in the first half of the fiscal year, the city may have to secure additional short-term loans to finance the second half of the fiscal year.

Furthermore, since taxes will be paid in two installments, only half of these which are unpaid on November 1 will become delinquent, and the city will lose half of the interest it would have collected had all unpaid taxes been delinquent on November 1. Thus, the City of Boston may well be deprived of much of the savings which could be realized under the new tax calendar and new fiscal year.

We must conclude that it would be desirable for the law to provide that municipal taxes be payable in two installments on July 1 and January 1, but that taxes not paid as due on these dates be delinquent from the same time.

In its published report on budget systems, the Home Rule Commission recommends that the Mayor be required to submit his budget recommendations

to the City Council by April 1, and that the Council be required to adopt the final budget by June 1. Although the Budget Division plans to submit the budget to the City Council by March 15, on the whole, the schedule proposed by the Home Rule Commission would be preferable.³⁸

The assessment day will remain fixed on January 1 under the new fiscal year. With the computerization of the Assessing Department (discussed elsewhere in this report)³⁹ it should be possible for valuations to be completed prior to the beginning of the fiscal year, and it may even be possible that the process could be completed prior to adoption of the city budget. Therefore, if revenues from other sources also are capable of being estimated with a reasonable degree of accuracy, it is not inconceivable that the tax rate could be established and that tax bills could be distributed during the month of June.

In summary, the new tax calendar and procedures offer substantial improvements over current practices. However, the quarter year from April through June will be crucial for assessors, and the calendar would be further improved if some of the state deadlines and revenue estimates falling in April and May could be moved to March and April. It should also be noted that since the tax delinquency deadline remains at November (and is extended to May 1 for half of the taxes) it is possible, under the new calendar, that the tax rates will be established and bills distributed after the beginning of the fiscal year.

38--Final Report of the Home Rule Commission, Boston, 1971, pp. 113-132.

39--See Part III under "The Information Gap."

Table 5Structure of the Tax Calendar

<u>Current</u>	<u>1972-1973</u>
<u>JANUARY 1:</u> Assessment day, fiscal year begins.	<u>JANUARY 1:</u> Assessment day, second half of taxes due and payable.
<u>FEBRUARY:</u> First Monday, Mayor submits budget to City Council	<u>FEBRUARY 1:</u> Departmental budgets submitted to Mayor by Budget Division (for coming year).
<u>MARCH:</u> Owners file property lists with Assessor (may be extended to April 1 for exemptions).	<u>MARCH 1:</u> Owners file property lists.
Assessor forwards 121A property valuations as of January 1 to State Tax Commissioner.	Assessor forwards 121A property valuations as of January 1 to State Tax Commissioner.
<u>MARCH 15:</u> State Tax Commissioner forwards list of telephone and telegraph company valuations to Assessor. (Companies or assessors may appeal by April 15.)	<u>MARCH 15:</u> State Tax Commissioner forwards list of telephone and telegraph company valuations to Assessor. (Companies or assessors may appeal by April 15.)
<u>APRIL 1:</u> State Tax Commissioner forwards to Assessor list and values of corporations liable to taxation under Chapters 59, 60A and 63, as of January 1.	<u>APRIL 1:</u> State Tax Commissioner forwards to Assessor list and values of corporations liable to taxation under Chapters 59, 60A and 63, as of January 1.
First Monday: City Council must adopt budget.	Mayor forwards budget for coming year to City Council.
Deadline for corporations to appeal valuations to Appellate Tax Board.	Deadline for corporations to appeal valuations to Appellate Tax Board.
State Tax Commissioner (in even years) establishes proposed tax equalizations for cities and towns. (Appeal deadline, April 20.)	State Tax Commissioner (in even years) establishes proposed tax equalizations for cities and towns. (Appeal deadline, April 20.)

Structure of the Tax Calendar

Current

1972-1973

Interest on delinquent second half taxes begins.

MAY 1:

State aid estimates are due.
(Usual arrival during month.)

Estimate of state/county taxes sent to Assessor by State Tax Commissioner.

MAY 1:

State aid estimates are due.
(Usual arrival during month.)

Estimate of state/county taxes sent to Assessor by State Tax Commissioner.

Second half taxes become delinquent.

JUNE 1:

Deadline for appeal to Appellate Tax Board on rebate equalization (even years).

JUNE 1:

Deadline for Appeal to Appellate Tax Board on rebate equalization (even years).

Budget adopted for coming year.

JUNE 14:

Tax bills to be sent out.

JUNE 14:

Tax bills to be sent out.

JULY 1:

Taxes due and payable.

JULY 1:

Fiscal year begins; taxes due and payable.

Assessors forward exempt property lists to the State Tax Commissioner.

Assessors forward exempt property lists to the State Tax Commissioner.

AUGUST 1:

State Tax Commissioner sends list of state-owned property values to State Treasurer.

AUGUST 1:

State Tax Commissioner sends list of state-owned property values to State Treasurer.

(Note: During this month tax rate usually set, but should be set prior to June 14 when tax bills due to be sent.)

SEPTEMBER:

Tax bills usually sent during this month.

Structure of the Tax Calendar

<u>Current</u>	<u>1972-1973</u>
<p><u>OCTOBER 1:</u> Deadline for abatement applications (or 30 days after tax bill sent if after Sept. 1).</p> <p>Interest on delinquent taxes begins.</p>	<p><u>OCTOBER 1:</u> Deadline for abatement applications (or 30 days after tax bill sent if after Sept. 1).</p> <p>Interest on delinquent first half taxes begins. (Note: this could be a loss.)</p>
<p><u>NOVEMBER 1:</u> Departmental budgets for the coming year due for submission to the Budget Division; taxes become delinquent.</p> <p>Appeals on equalizations decided (even years); State Treasurer forwards warrants for charges and assessments.</p>	<p><u>NOVEMBER 1:</u> Departmental budgets for the coming year due for submission to the Budget Division; first half taxes become delinquent.</p> <p>Appeals on equalizations decided (even years); State Treasurer forwards warrants for charges and assessments.</p>
<p><u>NOVEMBER 20:</u> State Treasurer makes in-lieu payments on state properties; deadline for appeals on warrants and assessments.</p>	<p><u>NOVEMBER 20:</u> State Treasurer makes in-lieu payments on state properties; deadline for appeals on warrants and assessments.</p>
<p><u>DECEMBER 1:</u> Assistant assessors usually begin field work for next year's assessments.</p>	<p><u>DECEMBER 1:</u> Assistant assessors usually begin field work for next year's assessments.</p>
<p><u>DECEMBER 10 to 20:</u> Omitted items are assessed.</p>	<p><u>DECEMBER 10 to 20:</u> Omitted items are assessed.</p>
<p><u>DECEMBER 15:</u> Deadline for abatement applications for widows, veterans, the blind and elderly.</p>	<p><u>DECEMBER 15:</u> Deadline for abatement applications for widows, veterans, the blind and elderly.</p>

Part I: Summary

Boston is relying more heavily on property taxes than any other city its size in the nation, but a number of factors are tending to undermine the efficacy of this revenue system. Among these are:

1. Changing demographic and economic patterns which have resulted, in recent years, in the evolution of a property tax base in which 52% of total valuations are tax-exempt.
2. Over-reliance on the property tax base to the point where 65 to 70% of the city's total revenues come from this source.
3. Rapidly expanding municipal costs, which, together with a relatively stable tax base, have resulted in a soaring tax rate.
4. A system of assessments, abatements, and exemptions which make equitable valuations near impossible and which for years have been eroding the tax base and undermining the credibility of the Assessing Department.
5. An irrational tax calendar, reflecting a web of state and local laws and traditions, which forces the city to place its administrative cart before its fiscal horse, and hampers the Assessing Department in its efforts to function professionally.

Although the tax calendar will be improved when the new fiscal year cycle is initiated in 1972, the city will still be forced to borrow in anticipation of taxes. It is also possible that tax bills will continue to be sent out after the start of the fiscal year.

Significantly, recent court cases have taken sales-ratio studies into account in determining equitability of assessments. This indicates a developing judicial trend which recognizes that equity can be achieved with less than 100% valuations. It is a trend, moreover, that could have grave

implications for the City of Boston.

While it is always important for the Assessing Department to perform efficiently, we must conclude, in light of these factors, that it is now critically important that the department make use of the most modern techniques available to assure the very highest calibre of effectiveness and efficiency in order to assure that Boston maintains a viable fiscal system despite these many handicaps.

Meanwhile, the extent of Boston's exempt properties makes it necessary for the city to explore the possibilities of obtaining additional revenue from land service taxes, service charges, and payments in-lieu of taxes from exempt organizations and institutions. However, it is not likely that these sources can be tapped for more than a fraction of the city's needs, and it is doubtful that they will provide substantial property tax relief.

While the property tax will continue to be the mainstay of Boston's revenue structure for many years to come, we feel that the city's fiscal problems can be solved only if at least one additional major source of local taxation--such as an income or sales tax--is made available to the municipalities of the Commonwealth.

PART II

DEVELOPMENT OF THE BOSTON ASSESSING

DEPARTMENT: 1948 TO THE PRESENT

Summary of Findings

1. There have been three ordinance changes and re-organizational attempts affecting the Assessing Department since the 1948 Reeves Report: in 1954, 1958, and 1961.
2. The 1961 ordinance incorporates many of the organizational recommendations included in the Reeves Report, but in practice there have been few administrative or structural changes within the context of a comprehensive or professional plan.
3. Even after three reorganizations in 1954, 1958, and 1961, the Assessing Department still suffers from an inadequate administrative structure and a lack of up-to-date equipment, methods, and procedures.
4. The 1961 ordinance provides ample administrative powers for reorganization of the Assessing Department without the necessity of seeking City Council approval for an ordinance change.
5. The Commissioner of Assessing recognizes the need to reorganize the department in order to clarify lines of authority and responsibility, and to improve control of departmental operations.

Reorganizational Attempts: 1948--1961

When Cuthbert Reeves completed his study of the Boston Assessing Department and its practices in 1948, the department was headed by a Board of Assessors composed of five members. These were appointed by the Mayor for five year terms, but served at his pleasure. The chairman of this board also was the administrative head of the department.

In addition to the board there were five deputy assessors and 49 first assistants (known in Boston as street assessors, and all of whom were part-time employees). A small "survey staff" gave clerical support and prepared required maps for the assessors. In all, there were 156 employees in the department.

In the wake of the Reeves Report the Finance Commission stated, in its summary of his findings: "The Assessing Department is operating under antiquated legal and regulative restrictions, and is poorly organized and inadequately equipped to perform its functions equitably and efficiently."⁴⁰

As means to correct these weaknesses the Reeves Report recommended, specifically:⁴¹

1. A reduction in staff from 156 to 103 employees.
2. Replacement or reclassification of part-time assessors as full-time employees.
3. Replacement or reorganization of the Board of Assessors as a single department under one administrative head; the department to be organized into four divisions: (a) Realty Assessing, (b) Personal Property Assessing, (c) Research and Statistics, and (d) Clerical. The first three divisions were to be under the management of a deputy assessor, and the

40--Cuthbert E. Reeves, Assessing Department Administrative Survey, Boston, 1948, page iv.

41--Ibid., 29, 45, etc.

clerical division was to be administered by a head clerk.

4. On reorganization of the department, but not before, the Reeves Report recommended that "consideration, should be given" to establishment of a Board of Review.⁴²

Six years later, in February of 1954, the Boston Assessing Department was reorganized, under the direction of a single administrator who was called the Assessor of Taxes. This official was given the complete administrative and other powers of the former Board of Assessors, including those relating to poll and motor vehicle taxes. The ordinance authorizing these changes also created a new Board of Assessors, as well as a Board of Review.⁴³

The new Board of Assessors was composed of the Assessor as an ex-officio chairman, and two Associate Assessors of Taxes. The board was given all powers except those conferred upon the Assessor and upon the Board of Review. In a rather curious provision, the 1954 ordinance also provided that the Board of Assessors was not to be under the control of the Assessor except in his capacity as its chairman. Contrarily, it was stipulated that the board could not communicate with the Mayor, or make any report, except through the Chairman-Assessor, unless otherwise ordered by the Mayor.⁴⁴

The Board of Review established in this reorganization consisted of three members, but no guidelines were set forth for determining their qualifications and thereby the character and composition of the board.

42--Ibid. (1949) supplement), 60. Contrary to Reeves' recommendations, the Board of Review was established although other reorganizational steps he listed as pre-requisites were not taken.

43--Ordinances of 1954, c3, Doc. 41-1954, reorganizing the Boston Assessing Department.

44--Ibid., s2, Doc. 41, p. 2.

The membership was appointed by the Mayor, who also designated the board chairman. This board was given powers of abatement on all taxes except the poll and motor vehicle taxes, and was made independent of the Assessor. But, as was the case with the Board of Assessors, the Board of Review could not communicate with the Mayor unless he so ordered.

The reorganization of the Assessing Department in 1954 did not follow along lines suggested by the Reeves Report for the establishment of administrative divisions. Perhaps that is why only four years were to pass before another attempt was made to reorganize the department. This occurred in December of 1958 when the Assessor of Taxes was redesignated, simply, as the Assessor, and given full power to administer the department and direct the Board of Review. The Board of Assessors, meanwhile, apparently was abolished by exclusion.⁴⁵

Under provisions of the 1958 reorganization, the Board of Review retained its former powers of abatement, but composition of its membership was changed to include the Assessor as an ex-officio member. In other respects, the structure of the board remained much the same, with the Mayor appointing the two additional members and also designating the chairman. As was the case prior to 1958, the board was allowed to communicate with, or submit reports to the Mayor, only through the Assessor unless the chief executive decided otherwise.

In one sense, the ordinance of 1958 provided a breakthrough in stating that: "The Assessor shall divide the Assessing Department from time to time

45--See Revised Ordinances of 1961, c5, 25-26, which contains the 1958 reorganizational provisions.

into a Statistical Research Division and such other divisions as he shall adjudge necessary for the proper conduct of the department."⁴⁶ This was the first time that one of the administrative divisions recommended by the 1948 Reeves Report was mentioned specifically in a following ordinance.

The reorganizational provisions contained in the 1958 ordinance were in effect less than three years. Then, in April of 1961, yet another ordinance was adopted for reorganization of the Assessing Department.⁴⁷

Again, the name of the department head was changed, this time from Assessor to Commissioner of Assessing. The Board of Review was retained but its structure and composition were more rigidly fixed; and the old Board of Assessors was re-established. In addition, two Associate Commissioners of Assessing were authorized, and these, together with the Commissioner as ex-officio chairman, were to comprise the Board of Assessors.

In respect to the Board of Review, the 1961 ordinance provided that two of its members be employees of the Assessing Department, and that a third be a layman, all three to be appointed by the Mayor. An ex-officio chairman was to be selected from within the department's "Real Estate Appraisal Division" and the second professional, or departmental member, was to come from the department's "Statistical Research Division." These were divisions recommended in the 1948 Reeves Report, and, while the 1961 ordinance provided for their establishment, no mention was made of a Personal Property Appraisal Division or of a Clerical Division, also mentioned in the Reeves Report.

The power to reorganize the Department of Assessing was shifted in 1961 from the Assessor to the re-established Board of Assessors. Thus,

46--Ibid., c5, s1, p. 25.

47--Doc. 33-196, Ordinances of 1961, c1, Reorganization of the Assessing Department.

in addition to the Real Estate Appraisal and Statistical Research Divisions which were specified in the 1961 ordinance, it was stipulated that the Commissioner and two Associate Commissioners of Assessing, acting as the Board of Assessors, were to establish (indeed, the ordinance states "shall establish") such other divisions or organizational units as required.⁴⁸

In practice, however, there have been few reorganizational changes ordered in the Assessing Department since 1958 within the context of any comprehensive or professional plan. Property appraisal, Clerical and other units of the department are not presently constituted as formal divisions, but rather have evolved over the years as operating sections which function more or less independently to carry out the day-to-day activities required of the department. Although more than a decade has passed since the department was empowered to reconstitute or reorganize itself there has been no conscious, methodical, or planned restructuring of the department to keep it abreast of the times in terms of various technological changes such as data processing refinements, and in terms of the changing work load in light of fluctuating local economic patterns.

The 1961 ordinance granted exclusive control of the Assessing Department to the Commissioner of Assessing, including authority over the Board of Assessors and Board of Review, with a few minor exceptions. One of the Associate Commissioners was placed in charge of poll taxes, and the other was placed in charge of motor vehicle taxes. The ordinance also provided that in the absence of one associate, the other was to assume his duties.

48--The reader can refer to the 1961 ordinance in Appendix III of this report.

The rather strange provision that the Board of Review could communicate with the Mayor only through the Assessor, unless otherwise ordered to do so by the Mayor, was eliminated. The two Associate Commissioners could be assigned other duties by the Commissioner, as approved by the Mayor and filed with the City Clerk. The Board of Review was not granted the power to make abatements, only to recommend them to the Commissioner. Under this system, still current, applications for abatements are directed to the Commissioner who refers them to the Board of Review, except in the case of poll and motor vehicle taxes. (The provisions for handling poll taxes remain in the ordinance although that tax has been abolished.)

There have been no substantive changes in the 1961 law.



Current Structure of the Assessing Department

The Finance Commission observation, in 1948, that the Boston Assessing Department was poorly organized and equipped to perform its assigned functions, can reasonably be re-stated today.⁴⁹ Even after three organizations in 1954, 1958, and 1961, the department still suffers from an inadequate administrative organizational structure, and a lack of up-to-date equipment, methods, and procedures.⁵⁰

The 1961 reorganization, as spelled out by city ordinance, provided, as we have seen, for certain essential and desirable changes. (For example, in the creation of the Real Estate Appraisal and Statistical Research Divisions.) It also provided the authority and machinery for making any additional changes needed. Specifically, the ordinance provided that the Board of Assessors "shall divide the Assessing Department from time to time into . . . such other divisions as said Board shall adjudge necessary for the proper conduct of the department."⁵¹ The Commissioner of Assessing also was given the additional power to assign new duties to his two associates, with approval of the Mayor. Thus, it may be seen that the 1961 ordinance does provide a considerable amount of authority and flexibility for the Board of Assessors to establish programs and procedures as well as to initiate organizational, or structural and administrative changes, necessary to maintain a viable Assessing Department. Nevertheless, today--a decade later--the organization of the department leaves much to be desired.

But if these powers have not been exercised effectively or comprehensively in the past, it should be pointed out that they are ample for

49--Op. cit., Reeves Report, iv.

50--See fold-out Chart IV, p.61.

51--Doc. 34-1970, 1969 Cumulative Supplement to the Revised Ordinances of 1961, c5, s1, p.10.

implementing the recommendations in this report, without the necessity of introducing them through the legislative process via the City Council.

Currently, it is difficult to determine precisely what the Assessing Department's organizational structure is, or how its various components relate to each other. Lines of responsibility and authority are not clearly defined, and our survey of personnel reveals that both supervisory and operating staffs are confused about their standing in the organizational hierarchy. Furthermore, there is no current departmental organization chart in existence, nor have we found any administrative manuals which describe the duties and responsibilities of various sub-units and individuals within the department.

Certain 1964 organizational charts, with an accompanying narrative, describe the Assessing Department as structured in three divisions: Assessing, Abatement and Board of Review, and Administrative. Each of these divisions then is further described in greater detail. For example, the Commissioner himself is indicated as heading the Assessing Division, within which there are purported to be units for Real and Personal Property Assessing, Research, and Engineering. In addition, the 1964 organizational charts indicate a Motor Vehicle Excise Tax section directly under an Associate Commissioner as specified by the 1961 ordinance. The Abatement Division (also the Board of Review) is shown as having sections for Files and Records, Abatements, and Social Services. The Administrative Division is described as consisting of five units concerned with General Services, Data Processing, Reassessments, Betterments, and Registry of Deeds Probate.

However, a 1968 organizational chart was drawn which included research as a staff function under the Commissioner, as well as a group of other functions including the clerical staff, social services, the computing operation, the Motor Vehicle Excise Tax Section, and the file room--all under a senior administrative assistant. This 1968 organizational chart also indicates a deputy and district directors as being directly responsible to the Commissioner, with supervisors and the first assistant assessors under them, including the Personal Property Section. In addition, this chart shows an Engineering Division with a Registry Division subordinate to it.⁵²

Going a step beyond the 1964 and 1968 organizational charts and their somewhat contradictory and conflicting designations, a 1970 study listed the Assessing Department's three main division as shown in the 1964 chart, with the addition of a fourth, or Engineering Division.⁵³ This relatively recent organization chart showed subdivisions of Social Services, Registry of Deeds, Reassessments, Personal Property, and Motor Vehicle Excise Taxes, as being part of the Administrative Division--a clear departure from both the 1964 and 1968 organizational schemes. In addition, Betterments is shown as part of the Data Processing Section.

Yet the Boston Home Rule Commission, in its recent final report, lists only three divisions: Assessing, Abatement, and Administrative.⁵⁴

52--Since these charts bear little resemblance to the actual structure of the Assessing Department today, they are not reproduced.

53--Op. cit., "Data Processing Study of the Assessing Department."

54--Op. cit., 152.

These organizational descriptions from various sources are mentioned to illustrate the confusion that exists currently in respect to the organization of the Assessing Department. The Commissioner of Assessing is aware of most of the shortcomings in his department's structure. He recognizes the need for greater control over the work of individual assessors, and the need to more clearly define lines of authority and responsibility at all departmental levels. The Commissioner also is aware that a great deal of the time and energy he now expends upon abatements could be saved if the Board of Review were given decision-making powers on abatements, with the Commissioner maintaining a veto on any abatements which might be granted.

Consequently, the Commissioner has recommended to us that his two associates be brought more directly into the administrative mainstream by relieving them of any abatement duties and assigning them instead to head the Assessing and Administrative Divisions, respectively.

While these changes undeniably would improve the organizational structure of the department, it is unlikely that they would be sufficient, in and of themselves, to bring about the kind of administrative and structural revisions which clearly are needed to provide for the efficient and effective operation of the department.

Part II: Summary

Despite various studies and reports, and several reorganizational attempts over a period of a quarter-century, the Boston Assessing Department remains today in a state of structural disorganization and confusion. This is demonstrated amply by the fact that the department's own organization charts conflict with each other, and that such fundamentals as operating and personnel manuals do not exist.

While some departures from rigid organizational formality can be expected in any similar department, the structural inconsistencies and inadequacies of the Boston Assessing Department are such that performance and productivity are greatly affected.

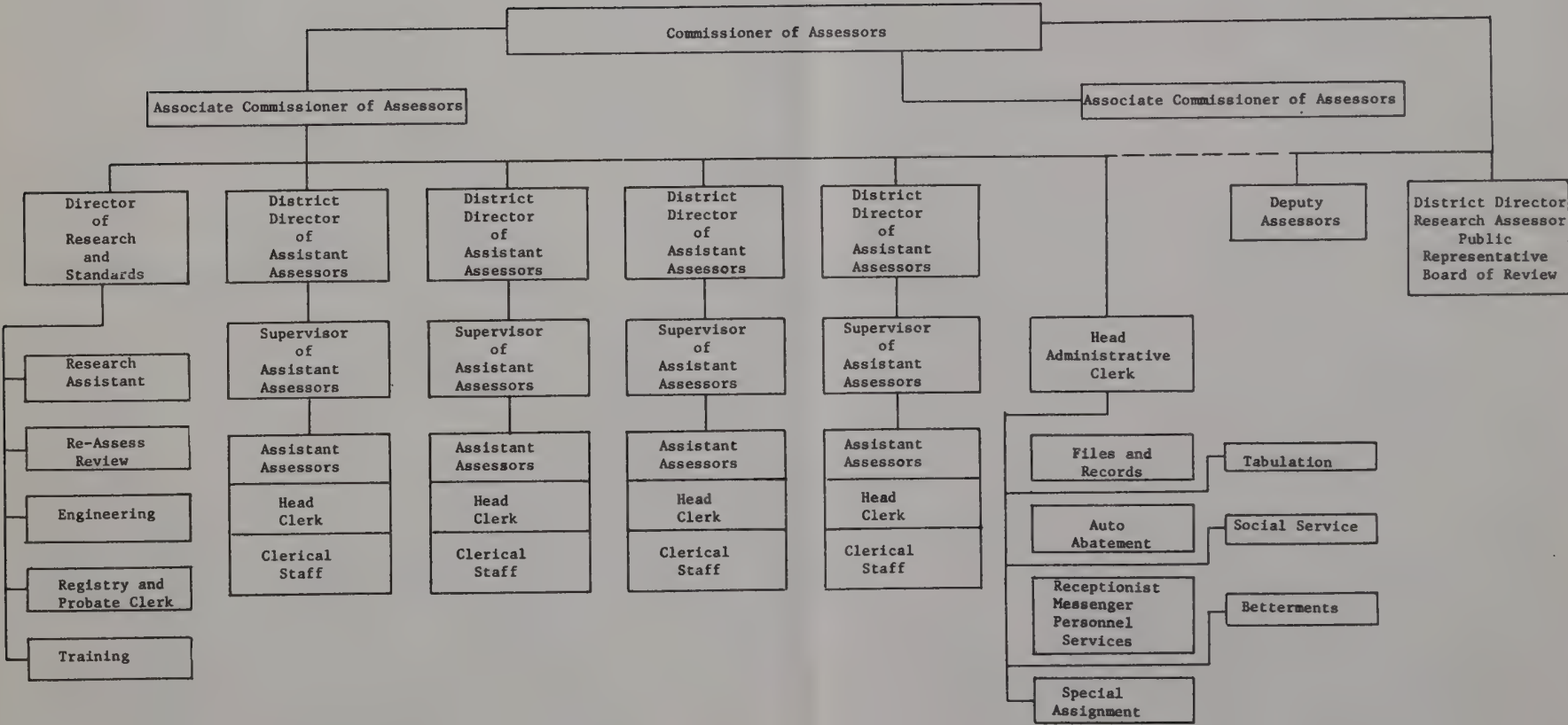
This is a condition which should not, and cannot, be tolerated in a municipality such as Boston where property valuations which define the ad valorem tax base are of such critical importance in the generation of revenues necessary to finance local government.

These organizational problems, therefore, will be discussed in definitive detail in Part IV of this report.

PROPOSED ORGANIZATION

BOSTON ASSESSING DEP'T.

1961



PART III

CURRENT OPERATIONS, STANDARDS, AND
MANAGEMENT-PERSONNEL RELATIONSHIPS
IN THE BOSTON ASSESSING DEPARTMENT:
A CRITIQUE WITH RECOMMENDATIONS

Summary of Findings

1. The organization of appraisal activities into geographical districts, the more or less permanent assignment of Assistant Assessors to a particular area, the lack of clearly defined standards, and minimal supervision has led to the use of inconsistent and frequently incompatible appraisal techniques throughout the city.
2. Lacking information about the classes of property in each district and standards of measurement, District Directors have no rational basis for making equitable work assignments to Assistant Assessors or checking their productivity. Other vital information on appraisal techniques, sales ratios, etc., which is available in the department is not readily accessible to the field staff.
3. The forms and records utilized by the Boston Assessing Department do not contain enough up-to-date information for making valid appraisals nor is any real effort made to verify information supplied by taxpayers on income producing properties.
4. The Boston Assessing Department is using too many different methods (at least seven) to determine property values and, since the 1957-59 equalization survey, has placed increasing emphasis in the use of the percentage of gross income approach; a technique which cannot produce consistent, equitable assessments.
5. Little use has been made of available standards or manuals such as the appraisal manual developed by the Massachusetts Department of Corporations in 1956; nor has the Department conducted training sessions for its assessors or taken advantage of the school for appraisers conducted annually by the University of Massachusetts.
6. The Boston Assessing Department at present does not have the data processing capability for equalizing values uniformly on an annual basis but still does not use base year standards, the only acceptable alternative.

7. Preconstruction tax agreements are a by-product of the tax system, the encouragement of urban redevelopment, and the need for developers to be able to predict the tax load in order to obtain financing. There are currently 156 preconstruction tax agreements in Boston, of which 90 are for housing or urban redevelopment projects entitled to tax exemption by law.
8. Unlike many jurisdictions, in Boston the present system of assessing does not provide means for predicting tax loads without negotiated agreements, but if the city were utilizing and uniformly applying well known assessing standards and procedures, a developer could calculate his own property tax liability and there would be no need for many preconstruction tax agreements.
9. Most preconstruction tax agreements are based on a percentage of gross income and range from 10 to 24 percent. Agreements at the 20 percent level or higher are competitive with assessments on new projects built without benefit of agreement while projects with agreements negotiated at less than 20 percent of gross income, which includes most state and federally supported projects are subsidized by the city indirectly.
10. The constant assessed value approach to preconstruction tax agreements which the present Commissioner of Assessing has most commonly used of late is the best and fairest of several approaches which have been used.
11. The Assessing Departments' data processing equipment is obsolete and being used primarily for billing procedures while data processing personnel still spend most of their time editing and correcting faulty data. However, the city is making progress in establishing a modernly equipped data processing center for the joint processing and use of data by many departments.
12. Current methods of gathering and handling data in the Assessing Department have created an information void which can seldom be bridged by the proper application of professional appraisal techniques.

13. The lack of complete geographic data and maps, combined with an inadequate identification system which does not lend itself to automation, hampers the activities of the Assessing Department as well as other departments which need this information.
14. The Assessing Department's public information and public relations techniques are diffused and there is no formal program designed to relate the department effectively to the citizenry.
15. Most abatement procedures are administrative in nature rather than quasi-judicial and in addition to routine administrative handling are processed by four different units of the Boston Assessing Department: 1) The Commissioner and Associate Commissioners, 2) the Board of Review, 3) the Social Services section, and 4) the Motor Vehicle Excise Tax unit.
16. The processing of applications for motor vehicle excise tax abatements, caused mainly by vehicle turn-over should be routine but is complicated by 1) The volume of applications (some 25,000 annually), 2) the lack of a uniform system for identifying vehicle ownership in the state-prepared tax rolls and 3) glaring errors in these rolls.
17. Applications for personal abatements processed by the Social Services section have increased in recent years primarily due to abatements for the elderly and totaled approximately 16,000 in 1970. The processing is unnecessarily complicated because applications must be refiled annually and there is no permanent file of information on individual annual applicants to aid the review in succeeding years.
18. The Board of Review handles all applications for abatements due to over-valuation. However, the Board has no staff to review appraisals made by the field men and to supply the Board with other information needed to make a sound judgement on the validity of the application.

19. The present assessment system discourages routinely effective appraisals and the field staff, with few exceptions, is not developing the information necessary for the Board of Review to properly evaluate each property on which an abatement application is filed.
20. Despite the equalization survey of 1957-59, in which some 25,000 parcels were appraised, a very high 18 to 23 percent of these properties file for abatement each year. Many of these are due to the department's failure to record the newly abated valuation and the same property is abated year after year, while some are due to the department's policy of annually monitoring pre-construction agreements and abatements allowed by law.

Summary of Recommendations

1. Standards and procedures for uniform property appraisals in Boston should be developed at once within the context of the three accepted appraisal approaches: Market Value, Income, and Replacement Cost.
2. A comprehensive internal or technical/professional information system should be established to accommodate all data essential to the appraisal function; and this data should be committed to data processing for analysis and processing.
3. The Research Assessor should be required to prepare a series of annual studies, including sales-assessment ratio analyses, as well as analyses of changes in rental incomes for property in the city, both by types and location.
4. The office of the Research Assessor should develop an official municipal appraisal manual and the standards and procedures therein should be enforced rigorously.
5. Once a valid appraisal system is established all city property should be valued on a uniform and equitable basis.
6. Assistant Assessors should report for duty at prearranged locations in the field and meet with supervisors there to receive work assignments. The Assessors should be given adequate tools to work with (e. g., good maps, completed property record cards, etc.).
7. A system of quality and personnel controls should be established, including closer supervision of field personnel, based in part on daily progress reports on work completed.
8. The Commissioner of Assessing should continue to monitor pre-construction agreements annually until the entire assessing system is improved.
9. New agreements should be based on a constant value formula and should contain re-negotiation clauses to adjust pre-construction estimates to actual project costs.

10. Every effort should be made to introduce the constant value formula into existing agreements where appropriate, and federal and state governments should be encouraged to accept the use of this formula.
11. An entirely new set of tax maps should be prepared for the city by the Engineering Section; a new numbering system should be adopted for department maps; and these maps should be updated routinely on an annual basis and committed to microfilm.
12. The development of a central data processing complex should be accelerated, using Assessing Department records for a data base. An immediate start should be made to provide the Motor Vehicle Excise Tax and Abatement sections with data processing capabilities; and a master tape file of all essential assessing data should be established and kept up-to-date.
13. The Assessing Department should coordinate its technical information programs with other city departments in order to assure routine receipt of all available official data relative to land and its improvements.
14. Key personnel in the Assessing Department should be given courses on data processing.
15. A public information program should be established for, or within, the Assessing Department.
16. Abatement applications should be recorded and processed daily and tight security should be maintained in the file room. A weekly status report, including the names of owners or their representatives applying for abatements, should be published.
17. Abatements should be granted only where appraisals do not follow accepted procedures, or where valuations are not compatible with market values or similar properties. All abatements granted should be recorded promptly on a master data processing file.
18. The new value of a property after abatement due to over-valuation should be carried for a three-year period unless conditions affecting the property change its value.
19. Clause abatements should be treated as exemptions and changes should be sought in Massachusetts law to accomplish this.

The Appraisal Function: An Overview

Assessing departments are among the most important elements in any municipal government. Such departments are assigned the responsibility for establishing property values which are used as a basis for fixing the local tax rates which determine the amount of revenues that will be generated each year to operate the government and to maintain the services it provides for its citizens.

Procedures used by assessing personnel in making their valuations are quite technical, and appraisers should be guided in their work by the highest professional standards. Consequently, assessing is regarded as a professional arm of local government which utilizes personnel highly trained in the collection and interpretation of technical data and information. This information, on analysis, becomes the basis for fixing the value of property and its improvements--a process which ultimately determines the amount of taxes property-owners must pay each year.

Generally, the office of a municipal assessor performs three basic functions:

- (1) It finds, maps and catalogs by use all properties within its jurisdiction and identifies those properties which are taxable.
- (2) It appraises or makes valuations of properties to be taxed.
- (3) It lists appraised properties and their valuations on the tax roll, together with individual tax bills which have been levied on those properties.

Assessors, usually assigned to an appraisal division, perform the first of these two functions, using various aids to find properties

and keep abreast of any improvements which may enhance their value. By the same token, assessors must take note of general economic conditions in a neighborhood which may affect property values, or of demolitions, abandonment, vandalism, etc., which may depreciate values.

Notices of changes in ownership on official records, title transfers, and permits for new construction, demolition, property alterations, street openings, and the like, are used by assessors to identify properties in which value changes are taking place. This is a process called "discovery," since valuations are determined by how land is utilized and the nature of the improvements upon it. Periodic, systematic reviews of municipal properties, parcel by parcel, are made to assure that all changes which may affect valuations are identified and recorded.

Once these properties are located, assessors must gather a variety of information. In connection with the land itself, data must be gathered relative to size, dimension, shape, available services, utilities, street services, storm sewers, sanitary sewers, sidewalks, curbs, and general topography. In addition, a detailed data base is required relating specifically to any buildings or improvements. Since this data is fundamental in the assessing process, we list the various categories:

1. Usage and type: dwelling, apartment house, store, warehouse, highrise office, industrial plant, etc.
2. Age of building.
3. Story height.
4. Number of family units if apartment house; number of stores or offices if commercial.
5. Ground floor area of the building.

6. Gross leasable floor area.
7. Net leasable floor area.
8. Type of construction: frame, brick, stone, concrete, etc.
9. Type of frame in structure: wood, steel, concrete, etc.
10. Basement areas.
11. Type of foundation.
12. Heating.
13. Lighting.
14. Plumbing.
15. Cooling.
16. Sprinkler systems.
17. Additions such as porches, attached garages, loading docks, escalators, etc.
18. Type of electrical power installation, if any.
19. Physical condition.
20. Special obsolescence, both structural (internal) or externally-related.
21. Special features such as electric door openers, dock levelers, escalators and elevators, loading docks, etc.
22. Exterior cover.
23. Effective age.
24. Renovations by types and dates.
25. Sales prices by dates of sales.
26. Breakdown of income by type of use with date of income verifications and date rent schedules were set.
27. Cubical contents of building.
28. Site subsoil conditions.

This information, when recorded in a uniform or systematic manner and filed centrally, provides the basis required for applying the three approaches generally used for determining the full fair cash value of any property.

These three acceptable appraisal approaches (and there are several undesirable variations which are sometimes used) are:

The Market Value or Sales Comparison Approach, hereafter identified as the Market Value Approach.

The Capitalization of Income Approach, hereafter identified as the Income Approach.

The Replacement Cost Less Depreciation Approach, hereafter identified as the Replacement Cost Approach.⁵⁵

In the Market Value Approach, the value of any specific property is determined by comparing it to some similar property sold recently in the same neighborhood or in an area with similar characteristics. This process requires a review of various pertinent categories of data relative to the physical condition, usage and income of any properties involved; and the assessor must gather or have access to such information before any comparisons can be made.⁵⁶ The object in obtaining this data is equity; without the complete data, equitable valuations are unlikely when using the Market Value Approach.

In the Income Approach, assessors determine values by projecting incomes which properties reasonably may be expected to produce during their lifetimes. After allowing for deductions and reasonable expenses, an estimate of value is determined by dividing the net income by a capitalization rate that is typical for the property, its usage, life expectancy, risk, and location. As in the case of the Market Value Approach, the Income Approach requires extensive analysis of all relevant Land/Improvements Data (LID)

55--The word "approach" is recognized in the courts and within the appraisal profession as defining a single method for determining property values.

56--See pp. 70-71, items 1-28. This catalog of essential data will be referred to hereafter as Land/Improvement Data (LID).

once it is gathered. This is necessary in order to estimate the typical rents that should be received and expenses that should be incurred in operating a building, as contrasted to actual rents and untypical expenses. To illustrate the problem of variation that often occurs between actual rents and economic or typical rents,⁵⁷ it is necessary to consider the tenant who may wish to rent unfinished office space. In a building where finished office spaces might rent for \$12 to \$15 a square foot, the lessee of the unfinished spaces might be required to pay only \$4.50 per square foot since he must bear the expense of installing his own partitions, heating, lighting, plumbing, air-conditions and ceilings, floors and walls. The owner in such a case will declare the actual rent received at the lower, or \$4.50 level. But the assessor must take into consideration the improvements to the building and make his determination on the basis of the higher figure, or economic rent. Since it is fairly common for owner-declared rents to deviate in this fashion, it is incumbent on assessors to verify reported rental rates.

In the Replacement Cost Approach, an assessor determines property valuation on the basis of the value of the land, plus the cost to replace any improvements on that land, minus any allowances for depreciation or obsolescence. Within the context of this discussion, "replacement cost" means the current cost of replacing the improvements with others of similar size, materials, amenities, and utility. Depreciation includes not only physical wear and tear but also loss of value due to location or lack of utility within the structure. The costs of similar buildings may

57--Economic rents are defined as "the reasonable rental expectancy if the property were available for lease."

not vary to any great extent from one part of a city to another, but their relative utility, due to physical condition and location, often will. This relative difference can be measured by capitalizing income losses, or by comparing value differentiations obtained through the Market Value Approach. As with the Income and Market Value Approach methods, the Replacement Cost Approach requires that the assessor have complete data (LID) pertaining to the land and its improvements in order to calculate any replacement cost or apply any depreciation schedules.

These, then, are the accepted approaches and professional techniques for making appraisals in most American cities. As will be seen, however, the Boston Assessing Department departs from these procedures.

The Appraisal Function:Management-Supervisory-Personnel Relationships
and Their Impact on Performance and Productivity

The Boston Assessing Department's Appraisal Division is organized around seven areas or districts, each of which contains one or more wards. Direct responsibility for the assessing function in these seven areas is assigned to District Directors who are responsible to the Commissioner of Assessing. Each District Director is in charge of a Supervisor of Assessors and several appraisers, or Assistant Assessors who seldom work outside of their originally assigned areas.

Assistant Assessors are required to gather the factual data (LID), including physical characteristics of the land and its improvements, on the various properties within their assigned areas. Their appraisals then are based on this data. In addition, each field man is expected to review and recommend appropriate action on all applications for abatement or exemption. The District Director then reviews the quality of this work, affirms or rejects the valuations and makes his own judgment concerning action on abatement or exemption applications before passing this material on to the Commissioner of Assessing or the Board of Review for final determination.

This final determination of value for each property is made by the Commissioner of Assessing in conference with the District Director. At this time the Commissioner correlates the final assessed valuations proposed with any special agreements made with Urban Redevelopment Corporations, commonly called c121A corporations, or any special pre-construction agreements with which the District Directors and Assistant Assessors may not be familiar. The Commissioner also reviews and makes

final determinations on all recommendations for abatement or exemption.

Management-Supervisory Relationships: As we have seen, the organization of the Appraisal Division is such that the Commissioner of Assessing is supposed to control the District Directors, who in turn supervise and direct the Assistant Assessors. In theory, this looks well. In practice, it has not worked.

District Directors exercise little effective supervision over Assistant Assessors, partly because there are no departmental standards by which field performance or productivity can be judged. There are no standards, either, by which the Commissioner of Assessing can judge the performance of his direct subordinates, the District Directors. This is not necessarily an appraisal problem, but rather is administrative in nature.

The relatively low degree of supervision and control exercised by District Directors over field men is illustrated by the fact that the binders containing work assignments are distributed in the late fall in much the same way as was done before the 1954 reorganization when the department utilized part-time, seasonal appraisers. As field men complete the work in these binders they are supposed to submit it to their District Directors for review on a more-or-less continuing basis. However, in practice the binders are not returned to the District Directors until the following spring. This means that the Directors themselves can make no daily or weekly progress reports to the Commissioner of Assessing during the annual six-month period of information gathering and preliminary valuation determinations.

Lax supervision was evident to us in a review of certain abatement applications. One District Director stated that when the work load became heaviest in the winter and spring one of his street men regularly "became ill." The Director added that, as a result, he never knew whether the Assistant Assessor in question had completed any or all of his work.

Another index to the state of management-supervisory controls relates strategically to an ongoing intradepartmental controversy concerning inequities in personnel work loads. District Directors and their field men complain that the work burden varies considerably from district to district. Yet, to our knowledge, no count of either real estate or personal property parcels has ever been made to support or refute these claims. No District Director requires his field men to submit daily or weekly reports which would indicate the number and types of various parcels inspected (that is, by single-family, duplex, three-family or more apartments, store, office building, industrial or commercial classification). This kind of information is significant since a high-rise apartment, for example, is a much more complicated assignment than a single family home and requires far more time and effort in the collection of data (LID) necessary for an appraisal. But, since District Directors do not receive this kind of information they have no idea, based on staff experience, how many properties are visited each day by their men. Nor can they make any rational judgment of work inequities based on a comparison of field assignments.

If the District Directors lack this kind of information, it is likely the Commissioner of Assessing also lacks it. Thus, he has no routine method for determining or checking on district workloads and analyzing these in respect to any bearing they might have on overall departmental performance. This problem will take on another dimension in

the near future when the City of Boston adopts the Planning-Programming-Budgeting System (PPBS) currently being developed. Under PPBS, budgets submitted to the City Council will be based on anticipated costs of actual work to be performed by a department or activity. As this system is refined, the Assessing Department will be required to defend its budget requests with facts developed from experience, including work loads, production and performance rates, and personnel costs.

Production schedules related meaningfully to district or overall work loads are needed to keep both high and middle management officials informed of progress toward divisional objectives so that other departmental activities can be coordinated or more properly scheduled as exigencies may dictate. Administrators lacking such data cannot judge the pulse or heart-beat of their organizations, let alone effectively control and guide their operations.

This same general problem manifests itself in another important respect in connection with professional records maintained by the department. Within the Appraisal Division two sets of hard copy, permanent property records are kept. The first set is known as the master card and reflects current ownership and assessed valuation and includes very slight descriptions of improvements as they existed five or ten years ago.⁵⁸ A second set of cards is similar in nature to the master cards. This set is filed in binders by ward and parcel numbers. In addition to reflecting current ownership, these cards are intended to be the repositories for all information from every source for each property.

58--Apparently, information on these records has not been updated since the original imprinting.

That is, the information on the cards is intended to reflect rents, expenses, number and types of use for building improvements, elevators, number of units within each structure, condition, and any dates of new construction. During 1970 new permanent record cards and binders were prepared for distribution to the Assistant Assessors. These contained only ward and parcel numbers, owners names, property addresses, and the 1970 assessed valuations.⁵⁹

Accordingly, late in 1970 the Assistant Assessors were asked to gather the necessary information required to complete these cards. Since none of the rents, sales or other information collected in previous years was noted on the new cards, it was intended that each property would be visited and valued in time for the preparation of the 1971 tax roll. On receiving their binders late in the fall of 1970, therefore, the field men began their canvasses, making appraisals and setting assessed valuations on the basis of the new information they were gathering.

But an understanding of work loads related to production schedules and goals would have indicated clearly to management in the department that the accomplishment of this task was a sheer impossibility within the time frame proposed and with the staff then available for work.

At a staff meeting in April of 1971, the Commissioner of Assessing expressed the desire that all 1971 binders and change sheets be prepared for review by his Associate Commissioners and himself. He set a deadline two weeks away, or at the latest by May 15, in order to begin the work

59--These cards were produced by the Assessing Department's Statistical Machine Operations Unit from the automated data punched cards in the tax billing file.

necessary to calculate the tax rate. Yet, when he asked his subordinates for their opinions as to whether this could, in fact, be accomplished, no one could so advise him. No records had been kept of the work that had been completed to date, nor did anyone have any idea of how much of the total work could be accomplished on any given day!

After this meeting we made a spot check of the binders in the Appraisal Division and on the basis of this we estimated that at least 60% of the records they contained had not been reviewed by the Assistant Assessors. With at least 60% of the city to be valued in a two-week period, it is difficult to understand how the required information could have been collected properly, let alone how valid appraisals could be made. The sheer lack of time alone, would force the street men to copy the 1970 values.

Going a step further, since the normally acceptable appraisal procedure in the department depends strongly upon the Income Approach for determining full fair cash value, we sought evidence of rents and expenses entered on the individual parcel records in the binders. But as of May 10 the listing of rents in the binder records probably represented less than 5% of the parcels for which rents are normally received.

(In fairness to the District Directors and the Assistant Assessors, we must emphasize, in this respect, that the binder property forms do not provide for the listing of either rents or expenses. The only place on the forms where this information can be listed is under "Field Information." Whenever this information is acquired it therefore tends to be listed haphazardly and thus is difficult to follow if one wishes to use it for calculating values. Of course, without any of the necessary income and

and expense data, neither the Assistant Assessors nor the District Directors can calculate the full fair cash values.)

When we noted, in our review of the binders, that not over 5% of the income properties had current rents or expenses entered at this time of the tax year, we could only conclude that the District Directors are not checking the work of their street men, are not requiring that the information necessary to compute valid values is being gathered, and are making little or no attempt to verify that information or, indeed, calculating any values themselves.

The District Director, like the Assistant Assessor, cannot determine values using the capitalization of Income Approach without income and expense information upon which to base his calculations. Experience here appears to parallel that which is noted in the section of this report dealing with abatements, wherein a District Director recommended abatements on a group of income properties, and made his recommendation on the basis of unverified income statements by owners.⁶⁰ In such instances the District Directors clearly are not supervising street men or verifying the information that has been collected.

Similarly, it is apparent that the upper level of management has never developed the systematic procedures and standards for spelling out precisely what is expected of the District Directors or the Assistant Assessors, nor has the department ever had an effective method for

60-- In this particular case there was a marked discrepancy in rents reported with owners declaring rental rates 30% lower than those reported to us by tenants. See pages 170-179.

measuring the progress of work on a periodic, routine basis. It is equally apparent that this unfortunate situation has evolved over a period of years -- as noted elsewhere, the street men have traditionally been left largely to their own devices. The problem of control will not be solved until the department is reorganized and the needed administrative and technical systems are developed and implemented.

Supervisory-Personnel Relationships: One reason that District Directors provide little guidance and exercise a minimum of supervision over Assistant Assessors stems from the fact that too many different techniques and systems are being used within the department for making appraisals. Although this has the grave result of producing inequitable valuations, District Directors apparently condone, and even indulge in, these variations. The lack of an effective and consistent appraisal system, in effect, prevents supervision. This may explain why, in part, District Directors complain of the inactivity of their Assistant Assessors but do nothing to correct or alleviate what they regard as a poor situation-- for they do not have the power necessary to standardize appraisal methods within their territories.

However, District Directors do have the power to document inactivity on the part of their street men, but, as we have noted, they do not do so. No records are kept to indicate what street work has been completed, what is in the process of completion, or what remains to be done. Unless the Assistant Assessors are working in the office at their desks, in fact, the District Directors cannot tell where any of their men can be found during any given working day. Supervision and control under these circumstances are virtually impossible.

These supervisory problems are more than merely departmental or administrative in nature. Their significance is far-ranging. This can be understood more clearly in terms of some rather interesting statistics comparing the rate of new construction in Boston with increases in property valuations in a recent two-year period. (Bear in mind that the Assessing Department and the City of Boston depend on the District Directors and their Assistant Assessors for the addition to the tax rolls of new construction and increased valuations due to alternations.)

We compared the value added for all types of new construction⁶¹ with the annual increases on real estate valuations for the years 1967 and 1968, with the following results:

TABLE 6

<u>A Comparison of New Construction and Real Estate</u>			
<u>Valuation Increases in the City of Boston, 1967 and 1968</u>			
BUILDING DEPARTMENT			ASSESSING DEPARTMENT
<u>(New Construction Reported)</u>			<u>(Value Increases Reported)</u>
<u>Total</u>	<u>Non-Taxable</u>	<u>Net Taxable</u>	<u>Total</u>
\$231,458,200	\$66,408,100	\$165,050,100	\$36,216,600
\$211,089,100	\$31,799,500	\$179,289,600	\$22,472,500
<hr/>	<hr/>	<hr/>	<hr/>
\$442,547,300	\$98,207,600	\$344,339,700	\$58,689,100

Thus, for the 1967 fiscal year, the Building Department reported \$165,050,100 in taxable new construction while the Assessing Department found only \$36,216,600 in new valuations. In the following year, the

61-- As reported by the City of Boston Building Department. These figures are developed in time frames approximating Assessing Department real estate valuations for similar periods.

Building Department reported \$179,289,600 as compared with the Assessing Department's \$22,472,500. (These figures take into account time lags between declared and completed construction, which tend to average out.) The significance of these figures is obvious. District Directors and Assistant Assessors are not, and have not been, picking up all of the new construction in the city each year, a practice that has been going on for many years. For example, a review of the records indicates that total taxable valuations on all real estate was \$1,314,718,800 in 1944. In 1970 that figure had increased to \$1,459,918,600. Thus, in a 26-year period the net increase of total taxable real estate as reported by the Assessing Department amounted to only \$145,199,800. This is less than the value of new construction reported in either 1967 or 1968!⁶²

Failure to register even a reasonable semblance to actual valuation increases due to new construction or other property improvements related to alterations, must be charged in this instance to the inability of Assessing Department management at all levels to supervise field personnel properly or to establish consistent appraisal procedures and maintain routinely efficient reviews of data coming in from the field.

In respect to the latter, each Assistant Assessor is expected to gather all data (LID) necessary to make appraisals, and to review and recommend appropriate action on applications for abatements or exemptions concerning properties that lie within his assigned area. We find, however, that the judgments necessary to make valid recommendations concerning these abatement or exemption applications often require interpretation on matters

62-- As a matter of policy, certain home improvements such as new siding, replacing windows, wiring modernization, new ceilings, etc., can be made without increasing the valuation of the home. See Appendix IV.

of law with which an Assistant Assessor may not be familiar. Furthermore, in reviewing the source information available on records maintained by the Assistant Assessors--namely the street binder property records together with the values finally determined--we are unable to understand how the street men make their determinations of value.

Information on the official forms in the street men's binders should be sufficient for calculating values without the addition of supplementary data. However, we can find no place on the property cards where rents and expenses must be listed. Without this information there is no way that an appraiser can calculate values from costs and depreciation, compare one property with another that has been sold, compare properties with similar rents, or even make a determination of value by capitalizing the income.

During the period 1957-1959 the Assessing Department conducted an equalization survey under the direction of Cuthbert Reeves which embraced approximately 25,000 properties.⁶³ At that time all three standard appraisal approaches were used to determine full fair cash value, with the most weight being given to the Income Approach. Since then, calculations on new construction and alterations have been made on the property forms in the binders of the Assistant Assessors, but we cannot find in these forms any data similar in quality or validity to that which was collected during the 1957-1959 equalization survey.

If the Assessing Department has not required the Assistant Assessors to collect and analyze this kind of pertinent information, or

63-- This was not a formal study as such, but rather a reappraisal of selected properties which produced recommended appraisal techniques in the form of a "Preliminary Appraisal Manual" completed in September of 1957.

if supervisors have no means for checking on the data being collected, it is difficult to understand how street men can be held responsible for producing uniform, equitable assessed values comparable to those in the equalization survey. Indeed, as we have noted already, after surveying abatement application reviews made by street men and District Directors, there do not appear to be any consistent techniques or methods used to made assessment appraisals in the City of Boston.

To elaborate on this significant point: several different techniques and systems appear to be in use, depending on the individual assessor. This development can be attributed, in part, to the present district organization in the Appraisal Division which was adopted on the theory that personnel assigned to these specific areas would become experts on internal conditions and values. In practice, however, quite another development occurred. Lacking close supervision, field personnel lost any perspectives that might have been gained from long association with their assigned areas. Objectivity became difficult both in terms or recognizing and acknowledging economic and other factors having a bearing on property values, or in relating these factors meaningfully to their appraisal approaches. Left pretty much to their own devices, the street men developed a tendency to familiarize themselves with their own areas to the extent that they could quickly check their street books, make any obvious changes, and then devote their efforts to nondepartmental interests.

Seen in this light, it is evident that restriction of an assessor to one particular geographic area limits his practical experience and confines his professional horizons almost solely within the bounds of his personal activities. This, combined with the fact that the assessor lacks

supervision until his binders are completed, encourages a tendency to develop short cuts in appraisal techniques. This may occur because the assessor simply wishes to save time, because of character failing such as laziness, or because of lack of standards to follow or the close supervision required to discipline him in his work. Consequently, his approach to appraisals gradually lapses into a state of inferiority--resulting in an incompatibility of techniques throughout the city.

The impact of these tendencies over the years was illustrated in the Oldman-Aaron⁶⁴ and Black⁶⁵ sales ratio studies wherein it was reported that one district was being assessed at 100% of current market (full fair cash value) while another was being assessed at 33%. Something similar to this is also claimed in the recent class action suit filed by some Roxbury residents.⁶⁶ As a matter of fact, a brief review of some current sales ratios indicates that the 33% valuation cited in the Oldman-Aaron and Black studies was high. The actual valuations appear to be as low as 20%!

Inconsistencies among assessors because of a lack of standards results in other forms of inequity. For example, we made a field review of identical houses, side by side, one of which sold recently for \$13,000 and which had been assessed for approximately that amount. The house standing beside it was assessed for \$9,000. In another instance we found a fairly new building which was assessed at \$90,000 although it sold for

64 --Oliver Oldman and Henry Aaron, "Assessment-Sales Ratios . Under the Boston Property Tax," National Tax Journal, Vol. XVIII, No. 1, March 1965.

65 --David Black, "Sales Ratio Study of the City of Boston," unpublished doctoral dissertation, Massachusetts Institute of Technology, 1969.

66 --Op. cit., Underwood et. al., v. Commissioner of Assessing.

some \$266,000 in 1966. And in yet another area of the city we found a building of the same class with an assessed valuation of \$114,000 although it sold in April of 1971 for \$300,000. Recapitulating in the table below, we show identical houses A and B, which stood side by side in the same neighborhood; Property C in a second neighborhood; and Property D in a third neighborhood:

TABLE 7

Assessment-Sales Ratio Comparisons
In Three Boston Neighborhoods

<u>Prop- erty</u>	<u>Sales Price</u>	<u>Assessed Value</u>	<u>Ratio of Assessed Valuation to Sale</u>
A	\$13,000	\$ 13,000	100%
B	Identical to A but Unsold	\$ 9,000	69.23%
C	\$266,000	\$ 90,000	33.83%
D	\$300,000	\$114,000	38%

In conclusion, let it be stressed that discrepancies of this kind are not necessarily the result of professional laxity per se, but tend to follow from lack of administrative controls, including the adoption and enforcement of standards and the kind of supervision required to assure the consistent and professional application of these standards in the field.

The Appraisal Function:
Standards, Techniques and Procedures

Background: Equalization and its Aftermath. The Reeves Report recommended development of appraisal standards and techniques for the Assessing Department, and by 1957 some of these had been developed. In 1959 additions were adopted "for internal use only."

The thrust of the 1957 standards was along lines required to provide a replacement manual for all types of improvements, together with methods for calculating land values. The 1959 standards, on the other hand, were directed toward the sole use of income by the Assessing Department as its approach to assessed values, and covered expense items experience for various types of commercial and industrial building uses in the city.

Following preparation of the 1957 standards the city embarked on an equalization program under the direction of Cuthbert Reeves using a "Preliminary Appraisal Manual." This equalization or reappraisal program embraced about 25,000 properties including all apartment houses (five units and over), and certain commercial, industrial and special purpose properties.⁶⁷ Generally, all three acceptable appraisal approaches were used in this project, but major emphasis was on the Income Approach. Rents gathered were intended to be current and those utilized were considered to be economic rents for the time. Thus the equalization program's Income Approach was oriented toward the technique of complete capitalization of income.

This involved determination of typical or economic rents obtainable for the property, typical or standard expenses of operation, vacancy factors, insurance rates, remaining economic life of the property, degree of

67--An additional 80,000 properties in the city were not included in this project and nothing was done to reassess them.

risk (which varies from one class of use to another and from one location to another), and finally, the demonstrated interest rate⁶⁸ on investment obtainable in the market. This proved to be as time-consuming as the Market Value or Replacement Cost Approaches. Therefore, in order to obtain quicker results the complete capitalization or Income Approach was modified to emphasize gross income multipliers. This, in effect, was a short cut system which ignored vital elements in the Income Approach.

Under this modified system an assessor determined the individual tax bill simply by applying a fixed percentage to the gross income of the property.⁶⁹

A fourth approach to value was propounded about this same time, described as the "Theory of Proportional Return." This theory was the product of intensive research which indicated that proportional return might be an improvement over the Income Approach to valuations. Under this system, property is appraised by first extracting from total income allowances for vacancies, collection and management; all operating costs,

68--The reader is cautioned not to confuse interest rate noted here with interest rates obtainable on mortgages. They are not the same. The interest rate, as used in this report, is the percentage of the full fair cash value of the property that remains of the economic annual income after deductions for costs of management (if any), cost of operating, insurance, vacancy allowance, depreciation and taxes. Costs of financing and amortization of mortgages are not considered deductible expenses in this respect.

69--Under pressure of the need for revenue the Assessing Department has tried continually to establish its tax bills on higher percentages of gross income. Taxes on new properties, however, generally appear to be based on lower percentages than older properties. Older properties are nearer 30-35% of income while pre-construction agreements on newer properties tend to cluster around 20-23%, with some as low as 15% of potential income.

repairs, insurance, payment of principal and interest on mortgages, depreciation, and economic return on investments. Anything that remained from the balance of gross income could be turned over to the city in taxes. Thus, the city's proportional return for services it provided was to be the remainder of the income from any property after all ownership, management, operating debt service, and other costs were deducted.

The following example is cited to demonstrate how the principle of Proportional Return works. An office building containing 2.5 million square feet of leasable area is to be constructed within the city at a cost of \$100 million. The developer asks the Commissioner of Assessing for a pre-construction tax agreement. He estimates that anticipated income from rents will be \$20 million annually, and that operating costs and debt service will be \$10 million per year. Under the formula developed in the principle of Proportional Return, the developer is entitled to a 7% return on his investment for interest and depreciation. Therefore, of the \$20 million anticipated annual income, \$3 million remains for taxes.

Recapping this we have:

\$100,000,000	Proposed investment.
2,500,000	Leasable space (square feet).
\$20,000,000	Annual income.
-\$10,000,000	Operating costs and debt service.
-\$ 7,000,000	Return on investment and depreciation (\$100,000,000 @ 7%)
\$ 3,000,000	Annual income remaining after deduction of operating expense, debt service, depreciation, and return on investment.
\$19,132,653	Assessed valuation. (To compute this the assessor divides the \$3,000,000 by the current tax rate, for example by \$156.80.)

The fiscal impact following from reliance on a system of Proportional Return for valuation can be understood by comparing the amount of revenues

generated for the city in taxes under this system as opposed to a valid appraisal approach. Under any of the three acceptable approaches⁷⁰ valuation would be made on the basis of full fair cash value for this property, or on the basis of \$100 million. Using the same tax rate as in our example, or \$156.80, any of the three acceptable approaches would generate for the city about \$6.5 million in tax revenue as compared to the \$3 million derived from Proportional Return. However, if any or all of the three acceptable approaches were used consistently by the city for property valuations and if properties were actually assessed at 100% of full fair cash value, there would be no need for such a high tax rate. The rate probably would be reduced by approximately two-thirds. In other words the full fair cash value tax rate would be between \$55 and \$65 per \$1,000 of assessed valuation as compared to the 1970 rate of \$156.80.

The tax rate should be the final figure calculated since it is, after all, the rate that is needed in order for the total taxable properties to produce a given amount of revenue.

However, until recently, the Courts have held that properties had to be assessed at full fair cash value (see discussion on pages 17-19) and assessors have taken the position that they were assessing at full value. It has been necessary for them to do so since their oath of office requires that they assess only at full fair cash value. The Appellate Tax Board has also assumed that all assessments were at full fair case value and therefore the actual tax rate of the community is considered the full fair cash value rate. Thus all parties concerned have maintained the fiction that all properties in Massachusetts are assessed at full fair

70--See pp. 72-74 for a description of the three acceptable approaches.

cash value while the fact is that they are not.

But when the tax rate and income of a property is used to calculate the valuation, the higher the tax rate, the lower the valuation. The following example will show how the valuation will differ when it is calculated 1) by using Boston's actual 1970 tax rate and 2) by using that tax rate which Boston might have if in fact all properties were assessed at full fair cash value.

In this example it is assumed that the income of a property, after deducting the costs, will be \$345,000. Also assumed is a 6% rate of interest for return on investment. The tax rate, expressed as a percentage or dollars per hundred, rather than in dollars per thousand is added to the interest rate. The income is then divided by the combined rates, as follows:

$$\frac{\text{Net Income}}{\text{Interest Rate} + \text{Tax Rate}} = \text{Indicated Full Fair Cash Value}$$

(Where Boston's 1970 tax rate of \$156.80 per thousand is used, the result would be:)

$$\frac{\$345,000}{.06 + .1568} = \$1,591,330$$

When a tax rate of \$55 per thousand is used (the rate which Boston might have had if all property were actually assessed at full value), the result would be:

$$\frac{\$345,000}{.06 + .055} = \$3,000,000$$

Thus it may be seen that the use of the current tax rate results in an indicated value of the property which is \$1,591,330 or 53% of its actual value. The continued use of current tax rates leads to a devaluation of the property every time there is an increase in the tax rate and to values which bear no relationship to the current market value which full fair cash value is supposed to represent. Furthermore,

in no way can values determined in this manner be related to values determined by the Market or Replacement Cost approaches.

It is significant that the Assessing Department's Research Assessor has gathered voluminous information on sales in the City of Boston, as well as cost standards, publications, documents and memoranda relative to appraisal techniques, but that all of this is kept under lock and key where it can be of little use to assessors in the field. By making this information accessible to street assessors, and training them in its use, valuation techniques could be improved. However, although the Research Assessor is required to oversee training sessions for the Assistant Assessors and District Directors, no such sessions are held.

Valid standards and techniques are available to the Appraisal Division from a number of sources. For example, in 1956 the Department of Corporations and Taxation published an appraisal manual describing the techniques, and establishing the standards that are expected to be used in appraising properties in the Commonwealth of Massachusetts.⁷¹ In conjunction with this manual and other needs, appraisal training schools have since been held annually at the University of Massachusetts in Amherst. There is no evidence, however, that the appraisal manual has ever been used by the Assessing Department or that any of its personnel have been sent to the training sessions at the university.

The Base Year and Other Standards. Most assessing personnel in localities outside of Boston make their appraisals as of one period day, or base year. That is, all values set in the municipality are related to

71--Real Property Appraisal Manual for Massachusetts Assessors, Massachusetts Department of Corporations and Taxation, Boston, 1956.

the values of a chosen base period or year.⁷² This is necessary because values fluctuate as time passes and the values for different types of property do not change at the same rate. By establishing a set of consistent values based on a particular year, an assessor can make necessary adjustments on property valuations with greater assurance that constitutional requirements of uniformity will be met. In terms of equity, the only alternative to establishment of base year standards is a data processing system sophisticated enough to enable a city to re-equate its values annually.

The City of Boston established what amounted to base year standards in connection with the 1957-1959 equalization survey. Unfortunately, these standards were applied only to about 25% of the city's 105,000 parcels. The remaining 75% of parcels which are primarily residential, still carry values from some bygone age, more recently constructed residential properties are appraised at a fraction of cost or sales price. In 1957-1959 this percentage was 50 to 60% of cost or market and now the claim is 30% of market, although comparison of sales to assessments seem to indicate that it is lower. In any case, the costs and rents used for different types of properties today to determine value have no similarity to the standards set in Boston in 1957-1959 or to any intermediate years. Thus, the City of Boston is not using base year standards nor does it have the data processing capability at present for re-equating values

72--At one time it was fashionable to relate all assessed values to 1940 and then to 1950. Relative statistics, developed by the U. S. Department of Commerce, have been constructed around the base years 1947-1948, 1957 and 1958 and now are being prepared for 1967-1968.

uniformly on an annual basis. Instead, at least seven major methods are being used in the Assessing Department to determine property value.

These are:

1. Income Approach.
2. Use of gross income multiplier or a percentage of gross rent.
3. A percentage of purchase price.
4. A percentage of the cost new.
5. A guess as to how large an assessed value the assessor can place on the property before the owner complains or absolutely refused to pay the tax and appeals to the Appellate Tax Board.
6. The use of any method that the individual assessor or District Director feels will pass the review of the Appellate Tax Board.
7. Proportional Return.

There are variations in the first three methods, variations that represent differences in percentages which are applied. Usually, these variations are the result of different years of original application or of the idiosyncracies or bias of individual administrators in making assessments or applying the property tax to different kinds of properties.

The Income Approach is valid if normal capitalization techniques are used. However, allowances for the various items of operating expense, maintenance, recapture of improvement value, etc., vary from one building to another, and with the economic life expectancy of the structure. The use of one gross rent multiplier for all properties in such a class cannot be justified economically. The following example illustrates the point we wish to make. Property A is a modern apartment built in 1965. Property B was built in 1921. Otherwise, both have the same characteristics of size, construction, story height, etc. The net income upon which capitalization of Income Approach is based, is broken down as follows:

TABLE 8

Income - Expense Variations and the
Impact of Gross Rent Multipliers

	<u>Property A</u>	<u>Property B</u>
Year Constructed:	1965	1921
Gross Income:	100%	100%
Vacancies and Delinquent Rents:	-1.0%	-1.3%
Operating Expense (Water and Fuel, Maintenance Supplies, Management Services, etc.):	-26.3%	-25.2%
<hr/>		
Net Before Taxes, Insurance, Depre- ciation, Repairs, etc.:	72.7%	73.5%
Insurance:	-2.1%	-2.5%
Repairs and Maintenance:	-8.8%	-10.9%
Depreciation:	-2.0%	-4.0%
<hr/>		
Net Income Before Real Estate Taxes and Return on Investment:	<u>59.8%</u>	<u>56.1%</u>

(Gross rent multiplier calculation is made by dividing the percentage of total income by the sum of the current value tax rate--we have used 6.5%--and the normal rate of return on investment: -6%.)

Apartments

<u>Property A</u>		<u>Property B</u>
Gross Rent: 59.8%		56.1%
Multiplier: (6 + 6.5%)	= 4.784	(6 + 6.5%) = 4.488

The preceding illustrations serve to show how a slight variation in the income and expense ultimately results in possible gross rent multiplier differentiations. The same multipliers applied to both these prop-

erties would not produce equitable results. As properties tend toward uses wherein owners supply fewer services, such as in manufacturing, warehousing or storage, multipliers will increase. They will also increase on new properties. The reason for this phenomenon is that buildings used for manufacturing, as an example, do not require the owner to supply the kind of special services necessary in multiple tenant buildings such as maintenance, heat, light, elevators, etc. In new construction the economic life of a building usually is much longer and may even extend in some instances to equal or exceed 100 years. From an appraisal point of view, the use of multipliers other than for guidelines or rules of thumb cannot produce consistent, equitable results.

Since the completion of the Boston equalization survey in 1957-1959, the Appraisal Division has tended more and more to use some form of a gross rent multiplier--either in the form noted above to obtain full fair cash value, or as another fraction of the gross income which would produce a tax bill. The assessed valuation is then determined by the application of the tax rate to this percentage of the gross income.

We find in examining the appraisal techniques, that division personnel claim to use economic rents. Actually, they come nearer to using contract rents; and in some cases, particularly in properties that are owner-occupied, the "economic rents" are those with which the appraiser was familiar 10 to 15 years ago.

By way of illustration, Bank Y asked for an estimate of taxes on a building that was to be owner-occupied. The District Director asked for

an estimate of first floor rents, as well as those on the upper floors, since the first floor rent normally must support the investment in that floor as well as the investment in the land. Bank Y responded to the District Director by asking: "Would you accept \$12 per square foot for the first floor, and \$6 per square foot for each floor above?" Eventually, a compromise was made on \$15 and \$6. The improvement cost was \$40 per square foot for the upper floors and \$80 per square foot for the first floor including interior appointments installed by the bank itself, plus its investment of \$150 per square foot of area for the land. From an economic point of view the following returns would have to be received:

TABLE 9

Example of Economic Rent as a Basis for Appraisal

	<u>Value Per Sq. Foot (Cost)</u>	<u>Rate of Return Including Taxes, Interest, Depre- ciation, Expenses, etc.</u>	<u>Annual Rent Needed Per Sq. Foot</u>
Land:	\$150	12.5%	\$18.75
First Floor:	<u>\$ 80</u>	19.5%	<u>\$15.60</u>
Total Land & First Floor:	\$230	- -	\$34.35
Each Floor Above First:	\$ 40	19.5%	\$ 7.80

Thus, the first floor rent used was \$15 per square foot and should have been \$34.35. The second floor rent used was \$6 and should have been \$7.80. The use of non-economic rents, therefore, can be seen to result in vastly lower values.

We also note that the rent schedules originally offered by developers and owners in order to obtain tax levy estimates from the Assessing Department tend to be lower than those which finally are used after construction. Some of this may be due to the time lag between date of original request for an estimate and time when the building actually is completed. In any case, however, the values should be based on experience and the economics of a proper return for the investment.

We have mentioned that the principle of Proportional Return was developed as a fourth appraisal technique. It is, in our opinion, an offshoot of the Income Approach. It would appear that this "principle" was developed during a building construction depression in Boston. These cycles, of course, occur in every city in the nation at one time or another, and in light of their grave economic implications, we find it difficult to condemn any community for seeking methods to encourage new construction by any means. However, it appears to be somewhat extreme to adopt a system whereby investors and developers are guaranteed their expenses, recapture of investment, costs of financing and return on investment, while the city takes anything remaining for taxes. But this is the system that Boston adopted under the principle of Proportional Return. In fact, the fiscal implications of this system became apparent under Boston's first "tax agreement" with the Prudential Insurance Company. The principle of Proportional Return was incorporated in that agreement. While it is not our intention to discuss the terms of this particular agreement here, we feel that in such cases surveillance of such properties should be conducted every year when possible, and the agreements should be reviewed in their entirety every five years and adjusted to reflect then current economic conditions.

As a practical matter, the value and appraisal procedures initiated under the terms of this first tax agreement have colored the appraisal techniques of every new property built in the City of Boston since 1958. This is so much the case that value estimates or agreements now are being requested even for new and rehabilitated single family homes. The consequent value or tax levy agreements, from an equalized appraisal point of view, result in lower taxes for newer properties than for old.

For example, during this survey we had an opportunity to review the calculations made as a result of two requests for tax agreements or pre-construction tax estimates. We calculated values that would follow from the application of the three appraisal approaches to value and compared the results of our study to calculations prepared by the department staff. The staff valuations ranged from 15 to 20% of full fair cash value.

In another instance, a pre-construction agreement on a large office building was made for approximately \$1,750,000 in annual tax levies. On the basis of the 1970 tax rate of \$156.80 per \$1,000 of value, this building would carry an assessed valuation of \$11,160,174, or 14.88% of full fair cash value. Thus, in order to meet the tax levy agreed upon prior to construction, actual valuation of only 14.8% of the property had to be adopted at the current tax rate. It will follow, also, in this kind of case, that the values based on a fixed tax levy will go down as tax rates go up. For example, if the tax rate were to go up to \$175 the valuation on this particular property would have to be reduced to \$10,000,000 or 13.33% of full fair cash value in order to accommodate it to the agreed levy of \$1,750,000. This means that the taxpayer in such an instance does not pay his proportional share of any increases in the

cost of municipal government, but rather shifts that burden to other taxpayers who are not privileged with the protection provided by such agreements. However, it is currently popular to assume that the positive economic impact asserted in a community by the introduction or development of a major new property is deserving of special consideration. It is reasoned, for example, that a corporate headquarters or large manufacturing plant creates jobs and tends to bolster or enhance the economy. Thus, it is believed to be reasonable and acceptable practice to offer inducements in the form of tax concessions to attract or keep such properties in a community.

While this popular assumption does not consider that a sound government and an equitable tax system are far better inducements to economic development, and that tax concessions may not, indeed, be necessary at all in this context, if we do assume that the concessions are desirable, then the long term fixed tax levy agreement still would seem to be an unreasonable and fiscally unsound extension of this practice. There must be limits even to tax concessions made for the benefit of the community in order to maintain some semblance of relative equity and thereby retain public confidence in local government, and especially public credibility in respect to the tax system.

In summarizing this discussion of base year and other standards, it is obvious that the Commissioner of Assessing cannot readily estimate future tax bills on new properties without consistent, logical, acceptable standards and procedures of appraisal. Without these, he is at the mercy of the taxpayer and of other governmental agencies who are constantly

attempting to set their tax liabilities; and he is not able to analyze the information that is available to be used in applying existing standards.

The Appraisal Function:

Recommendations

Four basic deficiencies in the Assessing Department are concentrated in the Appraisal Division. These are:

1. Lack of adequate middle and high supervision or management.
2. Lack of basic technical information.
3. Lack of standards and procedures on a professional level necessary to assure valid analysis and consistent application of technical data in the determination of values.
4. Lack of proper or effective organization.

We have discussed these and other problems in some detail. The following are our recommendations in respect to the appraisal function:

Recommendation 1: Standards and procedures for uniform appraising of properties in the city should be developed at once within the confines of the three accepted appraisal techniques: Market Value, Income, and Replacement Cost. This should involve development of:

- (a) Relative units of current land values.
- (b) Unit sales prices on various types of properties.
- (c) Current construction costs of various types of improvements.
- (d) Current square foot rent schedules for various types of properties.
- (e) Current ground floor rent schedules for various types of properties.
- (f) Capitalization rate schedules.
- (g) Depreciation schedules for improvements.
- (h) Obsolescence schedules.

In addition, sales should be compared to assessments on a continuing basis to determine current sales ratios in the city and thereby keep abreast of significant fluctuations in values.

Recommendation 2: An adequate internal or technical/professional information system should be established, comprehensive enough to accommodate all

details (LID)⁹⁶ of building and improvements, including usage, types of construction, age, condition, and all data pertinent to income, expenses, and economic life expectancy of the property. This information should be gathered and listed on standard forms which it can later be analyzed in comparison with sales of land or improved properties. As the technical information system is refined, all of this data should be placed on automated data processing tapes or other memory media for future analysis and processing.

Recommendation 3: The Office of Research Assessor should be required to prepare a series of annual studies, including sales-assessment ratio analyses as well as analyses of changes in rental incomes for property in the city, both by types and location. (These professional reports would furnish the Commissioner of Assessing and the Appraisal Division with the information required to determine annual changes in values relative to those used in the base year. Further, continuing analyses along these lines will assist top management in the department, as well as the Office of the Mayor and the Finance Commission, to make valid judgments pertaining to the relative quality of the work being done by the assessing field staff.)

Recommendation 4: The Office of Research Assessor should develop an appraisal manual to be used by personnel engaged in placing values on personal property. This manual should include current costs for various types of personalty, together with depreciation guidelines. It must also include instructions and guidelines for listing the various taxable items in the City of Boston. Ultimately, in this fashion, it will be possible to produce listings of real estate lessees as well as lists of owner-

96--Land/Improvement Data. See pp. 70-71, items 1-28.

occupants of buildings with the city. This information should be cross-indexed with personal property tax listings. In this connection, the Office of Research Assessor also should be required to conduct continuing studies of land values using both land residual and sales techniques. The results of these studies in turn will enable the Appraisal Division to establish current base unit land values throughout the city.

Recommendation 5: Appraisals of each property should be made regardless of the valuation level, once the comprehensive technical information system is established. Adherence to uniformly calculated and analyzed values should be mandatory unless it is clearly demonstrated that one is inequitable in value level as compared to others.

Recommendation 6: Following reorganization of the Assessing Department, as recommended in Part IV (following) of this report, Assistant Assessors should be required to report daily for work at some prearranged location in the field, where their daily assignments would be brought to them by their supervisors. There is no need for street men to spend hours in the office when they should be gathering information in the field. Each assessor should be furnished with adequate tools with which to work. Records should be supplied in block folders containing the property cards for the block together with appropriate maps. As each folder is completed it should be reviewed by the District Director to insure that the proper information has been gathered and that it is properly listed on the property report cards.

Recommendation 7: District Directors and supervisory personnel should be required to work routinely with personnel in the field and to check each

Assistant Assessor's completed work against department standards and appraisal procedures. We have noted the need for specialists in land-residential and commercial-industrial properties. Each value established by street men and District Directors should be field-reviewed for value level and uniformity of treatment by this required class of professional specialists. Failure to follow these standards and procedures should be dealt with firmly, regardless of the rank of personnel involved. Such a system, based on valid standards and techniques developed for one period to calculate values, will assure uniformity of valuation and appraisal treatment for all property-owners.

Recommendation 8: A system of quality and personnel controls should be established, requiring Assistant Assessors to prepare reports of their daily activities. These production reports would serve two purposes. They would provide administrative controls for the Commissioner of Assessing which would enable him to evaluate personnel assignments and performance (including where personnel are working at any given time as well as how field production compares with departmental work schedules and goals). These production reports also would enable the Commissioner of Assessing to develop adequate standards and data for administrative and budgetary planning. As an aid to both administrators and personnel, master block charts for the city should be maintained. These would allow the staff to quickly see which areas have been reviewed and which have not. And in the interests of departmental efficiency, the Commissioner of Assessing's chief administrative aide as well as the Associate Commissioner in charge of the Appraisal Division, should make unscheduled and unannounced spot checks on personnel in the field to judge the progress and quality of their performance.

Pre-Construction Tax AgreementsIn the City of Boston

During the depression of the 1930's and continuing through the war and post-war years of the 1940's, central cities in the United States found themselves in the grip of demographic and economic changes on a scale never before experienced. On the one hand, community growth, as exemplified by new construction, all but ceased and a period of economic decline and decay set in. Simultaneously, the cities also began to feel the effects of upper and middle class population shifts to the suburbs, accompanied by an influx of low income families into core areas--families that were generally larger and less able to pay for the greater services they required.

The fiscal impact of these demographic and economic fluctuations came in the form of increases in municipal costs, which, coupled with stagnating property tax bases, inevitably produced soaring tax rates.

Concern for the plight of the cities was felt at all levels of government: in the city halls, the state houses, and in the nation's capitol. A series of new laws and programs was devised and instituted to halt the decline, eradicate blight, and spur redevelopment of the core cities. At the same time, other laws and programs were designed to improve the socio-economic conditions of the new, un-affluent urban society.

The earliest of these programs--one which made a direct impact on the municipal tax structure--was public housing. The need to provide the urban poor with "decent, safe, and sanitary" housing at prices they could afford

to pay led to the creation of public housing wherein the government subsidized the construction and operation of housing projects. Being government owned, however (whether federal, state, or local), the housing projects also were tax exempt. Thus, local governments also provided indirect subsidies to such projects in the form of tax concessions. The resultant loss in property tax revenues was retrieved in part by agreements between the public housing authorities and the local governments whereby the housing projects made payments to the municipalities in-lieu of taxes.

Later, the concept of redevelopment as a public purpose was extended from residential to commercial and industrial areas and to the downtown itself when blight was present. Initially, the theory was that the government--usually a locally created, federally financed authority--should use its resources to purchase and clear the blighted neighborhoods and then resell them to private interests for redevelopment. Although it was recognized that the property involved would be removed from the tax rolls during redevelopment, it was theorized that ultimate improvement of the area by private enterprise would return the property to the tax rolls at much greater value than before. The assumption was that in the long run the community would gain by virtue of an expanding property tax base. It was also anticipated that public redevelopment would stimulate privately-sponsored improvements in the surrounding areas thereby establishing positive economic patterns with potentially far-ranging impact.

The City of Boston, which has been in the forefront in urban redevelopment, learned early, however, that the mere availability of land was

not enough to ensure its redevelopment. In the 1950's, private developers and entrepreneurs were more than a little reluctant to commit their capital resources on speculation that this would reverse the trend of central city decline. Somewhat to their surprise, most municipalities, including Boston, found themselves to be substantial holders of land which they wanted to dispose of for redevelopment, but for which they could find no takers.

In the more aggressive and forward-looking communities around the nation, steps were taken to seek out reluctant developers and entice them into redevelopment ventures through the offer of various concessions.⁷³ Boston also resorted to this device. As a consequence, tax concessions have been made during the past decade and a half which today raise questions about preferential treatment and "special tax deals" among a public more generally aware of their significance than before. Accordingly, the legal and socio-economic effects of these concessions or agreements deserve to be examined in closer detail.

To begin with, it should be acknowledged that the Massachusetts law dealing with tax exemptions for public housing authorities dates back to 1938.⁷⁴ Seven years later, tax exemptions were extended to urban redevelopment corporations.⁷⁵

At present in Boston there are 23 agreements on projects promoted by urban redevelopment corporations, and an additional 67 agreements covering

73--The New England states have had a long historical experience with tax exemptions as a lure for business and industrial development. In colonial days New England communities used this device to lure textile manufacturers from England; two centuries later they lost them to the South in the same way.

74--G.L., c121, s26R (1938,484; 1943,148; 1946,574 sl).

75--G.L., c121A, s10 (1945, 654).

low and moderate income housing projects. Another 66 agreements have been negotiated for other commercial or residential projects since 1958.

It is apparent that the existing tax agreements are a byproduct of the Massachusetts tax system and grow out of the need to encourage urban redevelopment. Of the 156 current agreements, 90 are for housing or redevelopment corporations which are entitled to tax exemptions by law.⁷⁶

In terms of other potential redevelopment properties, it should be recognized that Boston, like most metropolitan cities, believes it is necessary to offer prospective real estate developers some predictability regarding tax liability on a completed project. Mortgage lenders demand assurance in advance of construction, as to how the project will be treated for property tax purposes. If the City of Boston were using and uniformly applying well-known assessing standards and procedures, a developer could calculate his own tax liability--subject, of course, to fluctuations in the tax rate. But as has already been pointed out in this report, uniform assessing standards are not used and therefore the developer must contact the Assessing Department in an effort to determine what his assessment will be before he can obtain financing and begin construction.

In addition, as a practical matter, many proposed private developments are in direct competition with those built by the urban redevelopment corporations which enjoy a statutory tax advantage. These factors lead to pre-construction tax agreements on private development projects. A case can be made for the argument that, lacking such agreements,

76--See Appendix V for pertinent sections of c121 and c121A, Massachusetts General Laws.

there would be far less private development in Boston. In any case, this is a moot point in our opinion.

State and Federally Supported Development Projects

The concern of this analysis is to determine whether the system of negotiating and enforcing agreements is equitable among various taxpayers, particularly those taxpayers developing the same type of property.

As mentioned above, there are 23 pre-construction agreements governing projects sponsored by urban redevelopment corporations in the City of Boston. These corporations, commonly known as c121A corporations, are legal entities which may undertake the development of projects approved by the Boston Redevelopment Authority in areas designated as blighted. By agreeing to undertake a redevelopment project in a blighted area and by further agreeing to limit their dividend distributions to 6%, c121A corporations are allowed a 40 year exemption from real and personal property taxes under Massachusetts law.

Exemption, however, does not mean that there is no corporate tax liability. On the contrary, the corporation pays to the Commonwealth an excise tax of 5% of gross income plus \$10 per \$1,000 of assessed valuation. The Commonwealth, in this case, serves in effect as collector of this revenue and returns the proceeds to the community in which the project is located. A city also is free to negotiate other agreements with c121A corporations for additional payments which can be tendered locally.

The first urban redevelopment corporation agreement in Boston involved the Prudential Center. The assessment formula utilized in appraising that project set the pattern for subsequent agreements. In essence,

the agreement for the Prudential Center resulted in a tax payment of approximately 20% of anticipated gross income with the difference between the 20% and the statutory c121A formula being paid directly to the City of Boston. This amounts to approximately \$800,000 a year. In the pre-construction agreement covering another c121A corporation, the Employers Commercial Building, the Commissioner of Assessing negotiated a tax payment equal to approximately 24% of gross income. However, it is important to note that in these two c121A commercial office building projects, the assessor has negotiated additional direct payments to the city which, together with the statutory payments made to the Commonwealth, bring their total tax liabilities into line with that of other new office buildings in Boston.

Most of the remaining c121A corporations were formed to develop low and moderate income housing projects. Because they are limited dividend corporations, many of them also receive federal assistance for construction. All of the low income and those moderate income housing projects which are federally-aided have agreed to pay the city 15% of gross income as property taxes. Once again, the difference between the statutory excise tax and the agreed total is paid directly to the city. For those projects which are not low income or federally-aided moderate income housing, the assessor has negotiated payments equal to approximately 18 to 22% of gross income. This applies to both c121A corporations and those which are not.

Few would argue that the City of Boston does not need new housing for low and moderate income families. In addition to the c121A corporations,

there are a number of other state and federal programs which have been designed to encourage the construction and operation of such housing. These programs, in one way or another, are economically realistic in their recognition of the fact that without some form of government subsidy such housing could not be constructed and operated at a profit at rentals which low and moderate income families can afford to pay.

In addition to providing subsidies in the form of funds for construction and mortgage interest rates as low as 1%, the state and federal programs have provisions for paying taxes to a municipality which shifts much of the burden of subsidizing the housing projects to the local level of government. Where such projects do not contribute as much in property taxes or in payments in-lieu of taxes as they would if taxed normally, a proportionately greater burden is shifted to other taxpayers in the community. Understandably, we found that developers of projects which are not state or federally-supported also turn to the city in an effort to obtain equal tax treatment.

A brief explanation of the state and federal housing programs is needed in order to understand their impact upon development and redevelopment in the City of Boston.

At the federal level, two programs will be considered. The first of these originates in Section 221 (d) (3) of the Housing Act of 1961. The second stems from Section 236 of the 1968 Housing Act as amended. Both programs commonly are known by their section numbers: 221 (d) (3), and 236.

In order to qualify for financial assistance under either of these programs the developer must be a non-profit organization, a cooperative,

or a limited dividend corporation. It may be noted that many developers of low and moderate income housing under these programs in Boston have been organized as c121A corporations.

The older 221 (d) (3) program, which now is being phased out, offers the housing developer a 40-year mortgage at below market interest rates. These mortgages are purchased by the Government National Mortgage Association (GNMA) at a rate of not more than 3% as established by the Housing and Urban Development Act of 1965.

Under the 236 program, the Federal Housing Administration may make payments directly to the lender, thereby reducing the cost of interest paid by the developer to as low as 1%. With the free market mortgage rate today being 6% and more, it is easy to see why developers seek this form of federal aid.

In submitting an application to the federal government under these assistance programs, an applicant must include detailed financial information. Part of the application requires a statement concerning the anticipated (property) tax liability for the completed project. In Boston, the Commissioner of Assessing and the local FHA office have reached an understanding that the amount of taxes to be paid to the city by such a housing project would not exceed 15% of the gross income. This formula, based on rents collected, places the risk of nonpayment and vacancies squarely upon the city. The present Commissioner of Assessing properly believes that this risk should be shared with the developer, and he is currently re-negotiating these agreements to base these tax payments upon a percentage of potential rather than upon collected rents. Where the new formula has been put into

practice, the effective percentage has been increased to approximately 17% of the actual gross income.

There are also two other state housing programs which need to be considered. The first of these concerns the long-established public housing authorities. The second is the Massachusetts Housing Finance Agency (MHFA) established as an independent office within the Department of Community Affairs in the fall of 1968.⁷⁷

Massachusetts law requires that a public housing project shall make payments in lieu of taxes not to exceed the amount which would be raised by the current tax rate applied to the average assessed value of the land for the three years preceding its acquisition by the housing authority. But a city and its housing authority may agree upon payment of taxes on another basis.⁷⁸

The Boston Housing Authority has agreed to pay an amount equal to 10% of shelter rent, that is, gross rent less utilities. However, the BHA has not been able to make its agreed in-lieu payments for at least two years and there is no likelihood that it will be able to do so in the near future.⁷⁹ This problem has developed for housing authorities and cities all over the country, and the only long-term solution would seem to be some additional financial assistance from the federal or state governments.

The Massachusetts Housing Finance Agency is authorized to make construction and permanent loans for multiple family housing projects at below

77--Mass. Acts of 1966, c708, as amended by the Acts of 1968, chapters 671, 729 and 761, and the Acts of 1970, chapter 855.

78--See Appendix V.

79--Reported findings of a study by Arthur Solomon for the Planning and Development Department of the Boston Housing Authority.

conventional market rates. At least 25% of all units in an MHFA-financed project must be rented to low income persons and families, and the remaining 75% must be made available to persons in mixed income levels. The MHFA may loan 100% of the project cost to a nonprofit sponsor and up to 90% to other owners and developers.

While preconstruction tax agreements are not provided for by legislation, an applicant for MHFA assistance is required to submit evidence of the tax liability on the project when it is completed. Recently concluded negotiations between the Assessing Department and MHFA have produced a formula for assessing all MHFA projects as follows:

1. Residential rehabilitation projects: 16% of gross income.
2. New residential projects: 18% of gross income.
3. Residential projects with related commercial uses: 20% of gross income.

These are informal understandings which, ostensibly, serve as guidelines, but which are required before MHFA will provide financial assistance.

All five state and federal urban redevelopment and housing programs discussed above require, in one way or another, that the local tax liability be predictable. In some there is a statutory exemption and provision for payment in-lieu of taxes while in others a preconstruction tax agreement is needed in order to complete the application for financial assistance. The requirement that the local tax liability be established in advance has led to the development of a series of preconstruction tax agreements with one common feature; in each case tax payments are based on a percentage of income approach. However, each project is considered on its own merits and the agreements range from the 10% of shelter rent which the Boston Housing

Authority has agreed upon, but has been unable to pay, to the 24% of gross income which the c121A corporation developers of the Employers Building agreed to pay.

The agreements reached under these programs which attain the 20% level or higher are generally competitive with projects constructed without benefit of state or federal aid. Below this point, the city, in effect, is also subsidizing the project.

Since most c121A corporations seek annual abatements, in the course of these proceedings the disclosure of income data allows the assessor to monitor the success of the project and to seek adjustments as warranted. Although the annual abatement of values is discouraged in other parts of this report, an exception must be made when the value is based on the percentage of gross income approach. In our opinion, by making such an annual evaluation, the Commissioner of Assessing is probably obtaining the maximum revenues for the city.

Generally, however, the percentage of gross income approach tends to place the determination of the tax liability on the developer and upon what he and the assessor may agree that the project can afford to pay. If the developer and the assessor cannot reach agreement, the project stalls. This places the assessor in the unenviable position of having to decide whether a socially desirable real estate development project should go forward or not.

It would be preferable to use the acceptable Income Approach described on pages 72 and 73, in determining the value of the project for property tax or in lieu payments. Until this is done, the Assessing Department should continue to monitor gross income on an annual basis to assure that the agreed

upon tax liability reflects economic reality. Furthermore, the formula developed for MHFA projects does provide a guideline which minimizes negotiation and its extension to other kinds of projects, should be encouraged.

Private Development Projects

Not all of the redevelopment which has taken place in Boston has been in blighted areas. Considerable private risk capital has been involved in other office and residential projects. In order to arrange mortgage financing, these developers also seek to obtain a clear understanding, in advance, of the tax liability which may be expected for the completed project. Practically speaking the economic need for tax predictability is no less real for private projects than for state and federally-aided developments. Indeed, since the private developer is normally paying a much higher interest rate and lacks a governmental guarantee or subsidy, a strong economic argument can be made that predictability of the tax load is even more important.

In Boston this need for tax load predictability has led to the negotiation of 66 informal preconstruction agreements covering a variety of industrial, commercial, cultural, and residential developments. The majority of these projects however, are apartment and office buildings. An evaluation of the agreements pertaining to these projects provides a basis for determining whether the system is operating equitably.

As may be noted in Table 10 on the following page, the first of these private preconstruction agreements made between 1958 and 1965 were based on a percentage of gross income in the manner of the state and

TABLE 10

Assessment Formulas for Tax Agreements on
Office and Apartment Buildings

<u>Year</u>	<u>Office Buildings</u>	<u>Apartment Buildings</u>
1958	Percentage of Gross (20-25%)	---
1962	---	Percentage of Gross (20%)
1963	Percentage of Gross (20%) Min. tax of \$220,000.	---
1965	Tax Levy, Increase with Mortgage Reduction	1. Percentage of Gross (20%) 2. Percentage of Gross (21.9%)
1966	1. Constant Assessed Value Min. Tax of 22.9% 2. Constant Assessed Value 3. Constant Assessed Value	---
1967	1. Agreed Tax for 1969-72, then Const. Assessed Val. 2. Constant Assessed Value	---
1968	Constant Assessed Value Min. Tax of \$964,000	1. Percentage of Gross (20%) Section 220 Project 2. Percentage of Gross (25%) Min. Tax of \$87,000 3. Percentage of Gross (18%)
1969	1. Constant Assessed Value 2. Constant Assessed Value 3. Constant Assessed Value 4. Constant Assessed Value 5. Percentage of Gross (21%) Min. Tax of \$95,000	1. Constant Assessed Value 2. Constant Assessed Value
1970	Constant Assesed Value	1. Constant Assessed Value 1972-1975 2. Constant Assessed Value 3. Constant Assessed Value
1971	Constant Assessed Value	1. Constant Assessed Value 1971-1973 2. Percentage of Gross (22%) Low Income Project

federally aided projects. In 1966, a new approach was introduced whereby the agreement specified a constant assessed value for the completed project and the developer agreed to pay the going tax rate. The percentage of gross income approach was still used, however, in a few instances after 1966 and in a few other cases we found the agreement was made on the basis of a fixed dollar amount which the developer agreed to pay.

In our opinion, the constant value approach used most commonly of late by the Commissioner of Assessing is by far the fairest and most equitable form of agreement. Once the value of the development is agreed upon, it remains constant. As the tax rate increases, the project produces proportionately higher revenues, as would any other property not covered by agreement.

In summary, it may be stated that preconstruction tax agreements in Boston have developed as a result of both legal and economic necessity, and are intended to encourage redevelopment in the central city. The need to negotiate agreements is spelled out in the law in both state and federally aided programs, and in all cases the mortgage lender--be that a state, federal, or private entity--demands some predictability of the tax load on the contemplated project. The profusion of programs, projects, and financial arrangements has led to a variety of preconstruction agreements.

In many jurisdictions with well established and widely known assessing standards and procedures, a developer can calculate for himself the fair cash value of his property and his corresponding tax liability. This cannot be done in Boston.

Numerous recommendations for the long term improvement of the

Boston assessing system are contained throughout this report. When these recommendations are implemented the system will provide a basis for predicting property valuations and the tax liability which would be incurred at various tax rates. At that time the need for preconstruction tax agreements will cease to exist. However, until these improvements are made, we feel that the informal understandings and preconstruction agreements are justified and will need to be continued.

Given the justification for preconstruction tax agreements and the need to continue them, until the Assessing Department can be reorganized and a sound assessing system can be implemented, there are nonetheless some improvements that should be made in existing and future agreements.

While state and federally aided projects are entitled to certain statutory exemptions from local taxes, there are also provisions for reaching agreements on supplementary payments to the local government in the form of taxes or payments in-lieu of taxes. The preconstruction agreements on these projects, as well as those on private projects should be standardized as much as possible so that a prospective developer will know that his property will be treated the same as that of any other entrepreneur developing a similar project.

The constant assessed value formula utilized by the present Commissioner of Assessing is the best of several approaches which have been used, and it is recommended that the Commissioner continue to use this approach in all future preconstruction agreements. Moreover, it is recommended that in the course of abatement procedures which are the subject of existing agreements, especially those based upon a fixed tax levy or a percentage

of gross income, every effort should be made to introduce a fair cash value which will remain constant as the tax rate changes.⁸⁰

Where this is not possible, it is recommended that income continue to be reviewed annually, and that greater reliance be placed upon potential or economic rent rather than collected or contract rent.

Since the agreements are made prior to construction and therefore based on anticipated costs and income of the project, it is recommended that all agreements contain a clause whereby the agreement would be renegotiated on completion of the project so that actual costs and income can be utilized in determining the assessed value of the project.

80--The other approaches tend to result in low assessments. See pages 89-103 for a detailed discussion of this problem.

Pre-Construction Tax Agreements

In the City of Boston:

Recommendations

Recommendation 1: Until the entire assessing system is improved, the Commissioner of Assessing should continue to monitor pre-construction agreements annually.

Recommendation 2: New agreements which might be needed should be based on a constant value formula which allows revenue to fluctuate with the tax rate in the same manner as other properties.

Recommendation 3: Every effort should be made to introduce the constant value formula into existing agreements which are based on a fixed tax levy or a percentage of gross income.

Recommendation 4: Efforts should be made to persuade the federal and state governments to accept the constant value formula.

Recommendation 5: All agreements should contain a re-negotiation clause to enable actual project costs and income to be calculated after completion of construction. This is desirable since agreements now are based on pre-construction estimates.

The Information Gap

Information has been described as the most valuable commodity in the world. The Boston Assessing Department, in common with assessing offices everywhere, is both a major collector of data and a producer of information.

The over-riding objective of assessing is to gather and process data and information about properties throughout the community in order to determine their values as a basis for levying taxes. Since the property tax is by far the largest revenue source for the city, it is important that the data collected and the information produced from it be as accurate and timely as possible.

The Reeves report pointed to a number of inadequacies in the data gathering and processing procedures of the Assessing Department in 1948. At the time the department was in the process of installing punch card equipment which had been purchased for \$110,230 and which consisted of "nine machines for producing, interpreting, sorting, computing, and tabulating, and some auxiliary wiring units and racks."⁸¹

The Assessing Department already was converting some of its hand-billing procedures to the new equipment and Reeves had high hopes that the punch card installation would simplify a number of clerical procedures in the department as well as provide the base for producing improved

81--Op. cit., Reeves Report, 9.

information, Indeed, the idea of sharing the equipment with other agencies (although not the labor nor the information) was even suggested. The Reeves Report stated:

It is too early in punch-card operations to comment with much assurance upon that installation, but it safely may be suggested that all of the machines . . . will not be needed for the sole use of the Assessing Department after this year. It will need exclusive use of some of the smaller units, but a plan and timetable should be developed whereby other city agencies may participate in the use of the more complicated and costly machines, and be charged accordingly for part of the yearly costs that are involved." 82

In 1965, the Finance Commission recommended that a mapping system be developed for the common use of a number of departments in the city.

While the Assessing Department was not specifically mentioned in this report, the concept of data and information sharing was expressed. The introductory paragraph of this report bears repeating here:

An extraordinary opportunity for improved municipal administration in Boston lies at hand. It consists in the adoption of a basic management tool, revolutionary in concept and offering unlimited potential for interdepartmental cooperation and enhancement of departmental administration. It simply means the adoption of a plan of administrative planning and reporting on a geographical area basis. It is a tool which could add immeasurably to the effectiveness of municipal administration in the city. 83

We concur. It also is clear that in any such project the Assessing Department, as one of the major producers and users of land-related data in the city, would have to play a key role. This was recognized in 1969 and again in 1970 when the Boston Redevelopment Authority and the Assessing

82--Ibid., 30.

83--Finance Commission letter to the Mayor of Boston, September 1, 1965.

Department undertook a joint information systems study of the department. This study, conducted by the Concord Research Corporation, found that "significant advantages could be gained by both the Assessing Department and the BRA from a jointly organized project." The report also stated that "the Assessing Department possesses the only complete record of parcel definition and use in the city and already has the organization for maintaining this record." 84

Boston already is moving toward establishment of a community information system (or management information system, as it is sometimes known) whereby data will be produced and processed for use jointly by a number of city departments and agencies. This is an improvement made possible by the development of large-scale computers which can obtain the economic benefits of central processing while retaining off-site, departmental control of data input and retrieval. It is a movement, also, which we believe is absolutely essential to the Assessing Department if it is to maximize the production and utilization of the data and information which it requires to maintain efficient and effective appraisal techniques and methods.

We have shown that appraisal methods currently used in the department are not satisfactory. This can be traced, in large part, to the glaring deficiencies in timely and reliable data within the department. Proper record keeping, therefore, is an essential desideratum for the maintenance of acceptable professional standards within the department. But, as we shall see in the following review of the department's record-keeping procedures, current methods for handling data are so poor they have created

84--Op. cit., "Data Processing Study of the Assessing Department." 2.

an information gap which seldom is bridged by the proper application of professional appraisal methods, and which, in effect, has become a pit-fall for equity in the routine handling of appraisals.

Assistant Assessors presently are responsible for collecting economic and structural data pertinent to the land and its improvements, including new construction, alterations, and demolitions. Mapping and title information used by the assessors comes from the Administrative and Engineering sections, respectively; while building permit information originates in the city's Building Department. The department's Research Assessor is responsible for analysis of sales information, including the calculation of sales assessment ratios.

All of this information is vital in the appraisal process. It must be brought together and entered properly on the departmental records, and in the binders of the street men before it can be used effectively. We find, however, that:

1. No sales assessment ratios have been calculated collectively by types, use, or location, in the city. 85
2. Available sales information is not being used and is stored in the Research Assessor's files where it is kept under lock and key. 86
3. While basic information is readily available it is not being assimilated or analyzed in the department and, therefore, is not being applied properly in the field.

85--Data on improvements such as floor size, type of building, number of units, story heights, etc., can be compared against sales information and is of great importance as an aid in analyzing sales information as a basis for establishing values.

86--Let it be noted that if this information was made accessible it would have little value at present since necessary supporting data has not been, and is not being collected by the street men.

Building permit information is collected from the Building Department on cards which are left on the Assistant Assessors' desks. At the very least, these cards should serve notice that significant changes are occurring in the assessors' assigned areas, and that additional information concerning these changes is available in the Building Department offices. An Assistant Assessor going to the Building Department will find an excellent and up-to-date system of records including microfilmed construction plans which contain much of the information needed for describing a building and its mechanical features, or for calculating replacement costs, ground floor area, cubical content, net leasable area, and other data required in the appraisal process. We find, nevertheless, that:

1. No evidence exists on records currently maintained by the assessors that any of them has referred to the Building Department records prior to computation of assessed values.
2. Some Assistant Assessors go so far as to decline to note new building permit information on the property cards in their street binders, thereby foregoing readily available data which can be of invaluable assistance to them professionally, and on the basis that it is beneath their professional dignity to perform such clerical chores. Thus Assistant Assessors who were queried as to why they make no use of this data, stated in effect that they were not "hired to be clerks!"

One can more readily understand the significance of these findings by noting that the basic information tools of the Assistant Assessors--the property cards in their binders--were re-designed in 1970. Ordinarily, these cards would provide space for entering a variety of information (including the kind available from City Building Department) which is required in making valid appraisals of property. The new cards, however, require only a minimum of information which is insufficient for calculating the value of land or its improvements.

For example:

1. There is no description of permitted usage, actual usage, parcel size, topography, or services and utilities available to a lot.
2. There is no description or breakdown of building usage, e.g., relative areas of stores, offices, and other classifications.
3. Type of plumbing, heating, sprinklers, air-conditioning, special design features and other items that would affect the utility and therefore the value of a building are not described.
4. No provision has been made for recording actual physical age as well as effective age or of elements of obsolescence that greatly affect the value of improvements.
5. At no place does the property record card provide space for listing actual and economic rents and expenses, as well as the date rental information was acquired and verified.
6. No gross leasable or net leasable areas for the buildings have been developed for income-producing structures.
7. No rental estimates are listed on the property cards for owner-occupied properties as a basis for comparison in determining economic rents which are required in order to make valid valuations of such properties. 87

Great stress has been laid on the fact that the Income Approach should be the principal method of evaluating property in the City of Boston. Nevertheless, the information necessary to develop income has not been and is not now being listed in the street binders. In reviewing

87--The result of this, according to our survey and analysis, is that rents being ascribed to owner-occupied properties are not particularly realistic, some being too high, and others too low.

these findings we must conclude that:

1. Lacking information necessary for making valid appraisals, Assistant Assessors cannot properly apply any of the accepted approaches to valuation.
2. Lacking these consistent approaches to valuation within the department, there can be no standards by which to judge what kind of information is required for making valid assessments.

This appears to be a case of which comes first--the chicken or the egg! The point is that the entire system in the Assessing Department needs to be revamped. We believe this is true to the extent that it is difficult, if not impossible, to pinpoint responsibility for inequities, or to assign blame for the department's information gap to personnel who are required to function within this almost completely inadequate and illogical system.

Mapping and Engineering: Maps made for property tax purposes need to present, on a flat surface, the relative geographical location, size, and shape of every street, block, and individual parcel of property in the city. A numbering system also is required by which each of these can be identified for easy reference. However, existing maps, the information on them, and the present numbering system used by the Assessing Department, are not adequate.

The department's Engineering Section maintains all available maps. These consist of approximately 2,200, 29 x 42 inch sheets drawn to a scale of 1 inch: 30 feet (except those sheets covering downtown areas which are drawn to the very awkward scale of 1 inch: 25 feet). The oldest of these sheets date from about 1917. They were prepared to supplement, and then to replace, the Bromley Atlas, which has not been maintained for years.

Currently, these sheets map 80 to 85% of the land area in Boston. (That portion of the land area which is not covered represented city-owned properties, privately-owned exempt properties, and low, wet areas of negligible value at the time the maps were prepared). 88

Each sheet in the mapping system contains blocks that can be delineated completely only on that sheet. Some sheets have large blank areas on them that normally would be used to represent a portion of an adjacent block which could be used for matching separate sheets to ascertain whether an area has been inventoried properly, or for other reference purposes. Lacking this reference to adjacent blocks, the Assessing Department maps are not truly geographic in nature, but rather serve merely to picture individual blocks. In addition to delineating street, block, and parcel boundaries, the assessment maps carefully note buildings in their approximate relative locations on a parcel. Dimensions and land area, as well as street numbers, also are noted on or adjacent to each parcel. Every city block is assigned a number and this is placed on the sheet in which the block is found. But there are no parcel numbers. 89

88--Since that time ownerships have changed and relative land values definitely are no longer the same. Nevertheless, nothing is being done to survey these areas cartographically at present.

89--A cross-index of ward and parcel numbers, street addresses, and current owners' names, is provided by the department's Statistical Machine Operations Unit. Unfortunately, the parcel numbers are not listed on the assessors' maps so this information is of little assistance to the user of the tax maps. Inclusion of a parcel number, together with the cross-index, would do much to ease the workload of the Engineering Section, especially in connection with inquiries from citizens who use the tax maps constantly. The parcel numbers on the tax maps would also make them much more useful to the Assistant Assessors and District Directors in their field work.

Some time ago a numbering system was devised for lots, blocks, and sheets within each ward. Briefly, this system utilizes numbers which identify and accommodate the ward, sheet, block, and parcel within the block. This tends to follow normal procedure except that with the passing of time we find the following results:

1. The first one or two digits, depending upon circumstances, are ward numbers; for example, Ward 1 is Number 1, while Ward 14 is Number 14.
2. The next three digits are the sheet number with each unused digit being filled with a zero.
3. Blocks are numbered in accordance with the old Bromley Atlas alpha-numeric system. As a result, the splitting of blocks into subdivisions produces letter-number combinations such as: 54A3, 54A13, 54A2, 54L3, and 51N1, all of which may be contiguous.

The implication of this system is grave in terms of lack of standardization. For example, this system could not be programmed for data processing without being revised. Furthermore, this system provides no index within the letter-number combinations themselves which can be used to determine their geographic location. ⁹⁰

Information used by the Engineering Section to maintain its maps (for example, notices of changes in the form of splits or consolidations) is furnished either by the staff collecting title changes in the County Registry of Deeds, by the Registry of Probate, by the Land Court Office, or by the staff of ward clerks in the Assessing Department's Administrative Services Section. In order to prevent possible errors, the Engineering Section now asks that all transfers of title be routed through its

90--This numbering system has been in use almost a half-century. No revisions have been made in it since 1925, when the last change in ward lines was made.

staff. Any splits or consolidations of ownership by transfer are made on the maps and special sheets are prepared noting these changes for the assessors' books. These "appenda" sheets are attached to the binders to indicate to the street men that some change has been made as far as ownership of the land is concerned. The appenda sheets also reveal (a) where the land comes from, (b) who is acquiring it, and (c) area and dimensions under the new ownership.

The appenda sheets are provided as guides and notices for the assessors to assist them in their evaluations of affected properties. In addition to these sheets the Engineering Section also prepares notices of change of ownership for betterments, reallocates betterment charges, and apportions old tax bills between new owners.

In order to assist Assistant Assessors in identifying properties, the Engineering Section has prepared sets of sheets by wards. This was done by reducing the current tax map sheets photographically to approximately half scale, and placing them in covers.⁹¹ The negatives of all map sheets that are photographed (using 105 mm film) are kept in a steel file in the Engineering Office. As major changes are made in the sheets, the revised versions are photographed and the new negatives are filed in place of the old. However, the revised photographs are not dated, nor are they changed from year to year as minor revisions are made in each map.

In summary, the lack of complete geographic maps, combined with an inadequate identification system, considerably hampers the activities of both the administrative and appraisal sections of the department, as well

91--These half-scale maps are kept in the Engineering Office, but we found little evidence of their use when we studied them and questioned street men about them.

other city departments. In 1967, for example, the Boston Redevelopment Authority was required to conduct an aerial survey of the city in order to prepare photogrammetric maps for its own use. This would not have been necessary if the Assessing Department maps had been adequate, that is, if they had been geographic in nature and marked by a proper identification system.

We strongly recommend, therefore, that sufficient funds be appropriated to permit the Engineering Section to embark on a program to prepare an entirely new set of tax maps for the City of Boston. These should be laid out on map sheets in a grid fashion in order to account for each square foot of land in the city, and they should delineate the following items:

1. All streets and highways.
2. All parcels of land by non-contiguous ownerships, regardless of exempt or taxable status.
3. Dimensions, where obtainable, for each parcel.

Each parcel on the new maps should be identified by an assessor's identification number combining the map sheet, block and parcel digits. This numbering system should also be geographic in nature, in that parcels should incorporate a digit tied to the Massachusetts Coordinate System. These digits should indicate the centroid, or a specific corner of the parcel.

Numbering systems of this type have been adopted by other taxing jurisdictions having a larger parcel count than the City of Boston. Accordingly, we are including in this report a copy of the system which was adopted by the State of New Mexico and which is in current use there. While the New Mexico system was developed for use with federal subdiv-

isions, townships and sections, the techniques described are similar to those that would be used in conjunction with the Massachusetts Coordinate System. 92

We have noted that improvements have been delineated on the present tax maps. 93 The inclusion of this type of information presupposes that any change relative to size, shape, and location in existing--as well as future--improvements, will be maintained on the maps. As information presently is gathered, however, it is and will remain physically impossible to make such changes routinely. We feel that this type of information is best kept by the street men or on permanent record cards in the Appraisal Section.

After these maps have been prepared, they should be maintained. Once each tax year when corrections have been made as of the tax date, the master map sheets should be photographed. The need to trace ownership in respect to any specific tax year can be met by referring to the microfilm covering the maps as of that year. This procedure would be of considerable assistance in the tax title work and in preparing betterment allocations.

Data Processing: In October of 1967 the Administrative Services Department issued an invitation to computer manufacturers to submit proposals (RFP) for the initial stages of planning and developing a central computer facility which had earlier been determined to be "feasible and economical." Departments which would be included in the initial stages of developing the central "third generation computer facility" were Administrative Services, Assessing, Auditing, and Collector-Treasurer. 94 There

92--See Appendix VI

93--See page 132.

94--City of Boston, "Specifications for a Central Computer Complex," Administrative Services Department, 1967, in covering letter to prospective bidders.

is considerable logic in this combination, since each of these four departments constitutes a key element in the budgetary-financial processes of the city. These departments also are important originators of property and financial data which are vital in bringing about good municipal management controls and planning. In addition, it is obvious that a centralized and coordinated central data processing system would be of inestimable value to other city agencies.

The 1967 Central Computer Complex proposal provides insights for understanding the administrative processes and punch-card operations of the Assessing Department, in that it contains an excellent description of how these functions are conducted.⁹⁵ Similarly, the "Data Processing Study" completed by the Concord Research Corporation in 1970 reviews the punchcard and Statistical Machine Operations unit in the Assessing Department, and includes detailed flow charts of procedures, and samples of forms being utilized.

The Concord study still is being reviewed by Assessing Department personnel, but we find nothing to indicate that it is not essentially correct. Furthermore, the Julian R. McDermott Corporation, currently under contract to the Boston Redevelopment Authority, is working on the development of a computerized land-use information system in cooperation with the Assessing Department. The basic data input source for this system will be the department's own records.

These various developments are encouraging, for, as we have demonstrated in other sections of this report, the collection of information and the

95--Ibid.

processing of data are of fundamental importance in the Assessing Department. We have described elsewhere in this report how the department produces, processes and uses a variety of complex data in the appraisal function, as well as the imperative need for substantial improvement in every phase of the information and records system. It is necessary, now, to relate these problems more specifically to data processing.

Although the Assessing Department got an early start on data processing, the operation remains essentially a billing procedure with its primary output being the annual tax bill. Data processing also is utilized to process abatements, motor vehicle refunds and credits, and listings of both taxable and exempt properties. By and large, however, data processing has not been used for statistical analysis or as a means for providing improved information for assessors. The Statistical Machine Operations unit has little direct control of input data. In fact, its manager and supervisor reported that unit personnel still spend most of their time editing and correcting faulty data.

This may relate somewhat to the fact that the unit's once-proud equipment is now hopelessly out of date. Some equipment purchased 20 years ago is still in use. There are no tape or disc capabilities. And the unit is only now in the process of converting from obsolete 90-column "round-hole" cards to the currently standard 80-column "rectangular-hole" variety, which will be compatible with equipment in the city's central data processing facility.

Bearing in mind that 20 years in data processing represents three generations of equipment (the fourth generation already is in production),

we are not being facetious in suggesting that some of the Statistical Machine Operations unit's equipment may well have value solely as possible exhibition pieces in some museum of data processing!

We hasten to add that the Mayor of Boston and the Commissioner of Assessing are aware of these deficiencies or shortcomings and that progress is being made to correct them. However, the acquisition of new and sophisticated computers and data processing equipment, and the development of advanced data and records systems are not steps taken lightly or precipitately. Accordingly, there is an awareness, and some understandable fear, of security problems involved. Specifically, there is apprehension over the possibility that centralization and computerization of records in another department might lessen an originating department's control over its records. This is significant since some of the Assessing Department's records must be kept confidential. Therefore, the danger of possible leaks in security is real and it is prudent to proceed cautiously with any data processing conversion to a central unit.

Nevertheless, the modern systems which now are available in both software and hardware are such that not only can complete control and security be preserved for a using agency, it can actually be strengthened. This can be accomplished in a number of ways, such as providing both input and output terminals in remote locations in the using department, by building in program and machine constraints for controlling access to data, by maintaining back-up files, etc.

Data processing often has been regarded as a means for obtaining greater operating economies. The real pay-off is more likely to be in improved operations, greater control of the organization, better processed and more

accurate information, and enhanced planning capabilities. Management also is learning, albeit slowly, that the methods and procedures used in directing an organization without modern data processing may need to be changed radically when this equipment is introduced. Perhaps even more importantly, introduction of such equipment may tend to change the very organization itself as well as internal personnel and working relationships.

For these reasons we must conclude that the Assessing Department of the City of Boston can never hope to obtain the benefits of up-to-date data processing except through the techniques of data sharing made possible by a central processing unit. The city has made a start toward this and we feel it is a step in the right direction, especially in terms of the Assessing Department's needs. But current policy in respect to the city-wide computer complex, dictates a gradual development of the system. While we are aware of how difficult and time-consuming such a project can be, our greater awareness of the Assessing Department's needs and the grave implications of these in respect to the entire city, leads us to believe that a review of this policy and acceleration of the computer complex project would be in the best interests of the government as well as the community at large.

Turning now to the present data processing center, we note that it is equipped with an IBM 360-20 and an IBM 360-25. The former does not have the disc capabilities needed for remote on-line applications, while the latter is the smallest model which does. While the center is now capable of undertaking some of the machine operations performed in the Assessing Department, it will need more sophisticated equipment and more skilled personnel to undertake the statistical analysis vital to an

efficient appraisal service.⁹⁶ IBM already has announced the new 370 line of computers which will soon make the 360 line obsolete. Other computer manufacturers such as Burroughs, Honeywell, RCA and NCR have comparable advanced models.

Current thinking of the city is that it will eventually upgrade its data processing equipment by introducing the IBM 370 line. However, there is now only one on-line application (that of appropriations accounting) and city personnel are of the opinion that they must determine what other on-line applications are required before proceeding with formal planning for conversion to the new line.

Assessing is not only a logical place to start building a bank of environmental data for use by other departments, it is itself extremely dependent upon a steady flow of reliable data and information for efficient and effective assessing. We feel most strongly, therefore, that funds expended for upgrading the city's data processing center will be well spent.

Descriptions of the processes and systems work in automating assessing procedures is based on current operations in the department, and it appears that conversion to the third generation central facility might result in automating existing procedures. Unfortunately, the dearth of adequate and accurate data flowing to the Assessing Department on regular and well-established bases would tend to render the further automation of assessing procedures relatively meaningless.

In our previous discussion of departmental record-keeping⁹⁷ our comments were limited, more or less, to the "hard copy" or paper records

96--For example, immediate steps should be taken to enlist the center's support in processing some of the billings handled in assessing.

97--See pp. 127-131.

maintained in the Assessing Department. Actually, although they are wholly inadequate, they presently carry much more information than the records maintained in the machine room. In a city which has more than 100,000 parcels of property and where the need is so great for information relative to that property, it seems to be an extreme waste to use data processing equipment only to list ownership, location and valuation of property simply to apply a tax rate. The present equipment adequately performed these accounting functions when it was acquired. This does not suffice today.

This is illustrated by the fact that much of the time now being spent on abatement applications, reviews, reconsideration of values, and the like, is being expended looking for the kind of information that can be made instantly available through data processing.⁹⁸

While computers will not supply absolute values, they will provide departmental management with acceptable value limitations within which final judgments can be made. Once the standards and procedures are designed for individual property comparisons and determinations of value, computers can be programmed to accept all of the information on hard copy property record cards and make the same kind of comparisons and calculations with great speed.⁹⁹

98--Other American cities have learned this lesson well and have developed and installed computerized assessing systems. It is doubtful whether major cities can afford to be without this kind of sophisticated equipment, which has become essential to achieve equity, efficiency and effectiveness in large-scale assessing operations.

99--The kinds of information computers can accommodate and assimilate, in terms of property descriptions, are described on pages 70-71.

Since all of this type of information must be used by appraisers for comparing rents and sales, and for calculating replacement cost less depreciation, it is logical for the data processing equipment to use the same information in making its comparisons and predictions. As an example of information sharing, once a data base of this kind is developed, it can be used--with limitations only in terms of classified or confidential data--by any or all other city departments. Doubtlessly, other departments would be willing to contribute to its development.

As noted elsewhere in this report, the Assessing Department needs to strengthen its ties with the Building Department, the Fire Department, the Registries of Deeds and Probate, the Land Court, Housing Authority, Redevelopment Authority, and other agencies in order to establish clear-cut procedures whereby information about changes in land and its improvement will be channeled routinely to its offices. By the same token, much information now being collected and processed by the Assessing Department should be made available routinely to other departments and agencies. Thus, any improved automation should be based on new, and not on current procedures.

Four major files are maintained: (1) maps, plans and atlases (by Engineering), (2) property record cards (by Administrative Services), (3) tax billing (by Statistical Machine Operations), and (4) field records, maintained by the assessors. The practice of maintaining separate master files in various divisions should be discontinued and all essential data should be cleared through the master tape with print-outs distributed as needed.

Attention must also be given to the adequacy of the data and information that is generated and the uses to which it should be put. For example,

the field records prepared for the Assistant Assessors from the tax billing file have proved to be inadequate. A master tape file with complete and pertinent data should be prepared and updated as frequently as possible.

The Assessing Department's Abatement Division and Motor Vehicle Excise Tax Section currently are processing a considerable daily volume of work. The Motor Vehicle Section should have a key punch--or preferably a key-tape machine--on site so that motor vehicle records could be punched and processed on a daily basis rather than accumulating the material and processing it periodically as time permits. This would be a good place to start utilizing the city's central data processing facility. The Abatement Division is making limited use of data processing equipment, but it also could make good use of an input device to prepare a record of abatement applications and their progress throughout the abatement procedure. This, too, should be collected daily, and as recommended elsewhere, should be processed at least weekly.

The suggestions mentioned here are steps which can and should be taken immediately. Perhaps more importantly, we also recommend that immediate steps be taken to plan and prepare for new data processing applications.

All too often a department will embark upon a data processing program without adequate attention being given to all phases of the new system. As a result even a relatively smooth-running manual operation can become chaotic. As part of this preparation, therefore, we recommend that key personnel in the department be given a short course in data processing. For a computer is not, after all, a giant calculator; nor is it a brain. Essentially, it is an extremely speedy (and, once properly programmed), a very accurate means of manipulating, storing, retrieving, and reporting masses of data.

Management needs to know the computer's capabilities and limitations. A number of organizations are capable of conducting such courses and seminars and we urge the department to take advantage of them. This is particularly important since present equipment has been used primarily as accounting machinery and departmental personnel tend to view it as such. It is essential that this attitude be changed.

Throughout our survey of the Assessing Department we have found that a number of key ingredients for building and operating a sound assessing system need to be strengthened. There needs to be a complete reorganization and a definition of procedures for both administration and assessing, the strengthening of communications and controls, a much greater emphasis on follow-through, and perhaps, most basic of all, concentrated attention on the development and implementation of a sound information system. The whole purpose of the assessing function revolves about its need to collect, process, and analyze a staggering amount of accurate data in order to value property equitably and thereby spread the tax burden fairly and raise the 65 to 70% of revenues required to finance Boston's local government.

In our judgment, the information system required can best be obtained through cooperative action with other city departments, and the maximum possible utilization of the city's central data processing facility. Therefore, it is our recommendation that the department and the city administration expedite with all deliberate speed the development of the common municipal information system which is already underway.

The Credibility Gap: The soaring Boston tax rate, and the state system of ad valorem taxation which is riddled with inequities, have

undermined public confidence in the assessing function. A credibility gap has resulted which is as important a problem in terms of the general public well-being, as is the gap in professional or technical information in respect to the fiscal well-being of the city.

It is essential that the development of technical information and its proper application be given the highest priority within the Assessing Department. But the existing information gap will not be closed entirely until that part of it which extends into the general public sector also is bridged. An adequate public information program, therefore, would appear to be not only desirable at this time, but necessary if public confidence in the Boston tax system and in the assessing function are to be restored.

In order to close the information gap entirely two basic steps must be taken:

1. The recommendations in this report, designed to eliminate tax inequities and bolster the Boston tax base through the establishment of professional appraisal standards and procedures within a more efficiently organized Assessing Department, must be adopted and implemented.
2. As this is accomplished a public information program must be launched to familiarize citizens with the municipal tax system, the changes being made in it, and the significance of those changes. This program should utilize modern governmental public relations techniques to build and maintain an improved image of the Assessing Department as well as of the municipal government in general.

The public has the need to be informed and the right to be informed; and it is the government's obligation to meet this need. Neither the media nor the Chamber of Commerce, nor any other civic or quasi-governmental agency can speak for the government. It must speak for itself. This is

particularly true in these days when governments are becoming increasingly complex in terms of their methodology and technology, to say nothing of their size and diversity. And certainly few governmental functions are more complex or technical than assessing, yet so fundamental to public understanding of overall municipal government and its role in the community.

Public information and public relations programs generally have been more abused than used effectively at local government levels in the past. Good programs, more often than not, are attacked by local media as propagandistic. This may relate to the fact that until recently, some municipal public information or public relations programs were notoriously blatant in their political orientation.

Public and media attitudes toward modern and professional public information and public relations programs are changing, however, partly because municipalities have been forced directly into competition with each other--for tourist dollars, conventions, new business and industry, and for state and federal aid. Cities also have tended to develop highly expensive cultural, recreational, entertainment, and athletic facilities which require professional administration of the kind that is strongly public relations oriented. As a result, municipal departments have evolved with professional staffs and substantial budgets for advertising, promotion, and public relations programs.

The success of these nonpolitical public relations programs has led to a re-evaluation of their efficacy in terms of general municipal government. But as yet, few cities have developed an overall, coordinated advertising and public relations program. The alienation of the citizenry from local governments as they become more complex and diverse and therefore less

accessible and responsive to citizens as individuals, is leading to renewed efforts by these governments to keep the public informed.

It is precisely because of these patterns that many cities now are developing Ombudsman programs along various lines, all of which have one goal in common: to make local government more accessible and more responsive to citizens. The Ombudsman does this by providing a bridge for closing the gap between the citizen's needs and the government's power or ability to meet those needs. In conjunction with this process the Ombudsman also uses informational and public relations techniques, along with educational materials, to help citizens understand the limitations and problems of their governments when these have a bearing on the issues at hand. This is a significant departure from a propagandistic posture which attempts to minimize or deny problems, but it is proving to be more effective in generating community good will and the informed citizenry necessary to support remedial measures.

The Little City Halls developed in Boston are another manifestation of this modern trend. Other cities have similar programs and the most recent adaptation of this concept is the "Mobile City Hall" used in Miami, Charlotte, and other municipalities. These cities boast that they "take government to the people." The mobile units dispense a variety of convenience services, take a pulse of neighborhood attitudes by analyzing queries and complaints, distribute government publications and carry exhibits and special teams of government lecturers to schools and convention halls or civic meeting houses to acquaint citizens with government services available, new programs, etc.

Service and information centers, staffed by city hostesses dressed in outfits as chic as any used by airline stewardesses, have been established

in cities around the nation. At Jacksonville, Florida, for example, the city's Public Relations Division established such a center which is a model of its kind. The center is staffed by information specialists (most of whom are college trained and thoroughly schooled in the complexities of their government). These specialists spend considerable time answering a multitude of general queries about government, its services, and how to obtain them. They also receive complaints and resolve them on the spot, when possible. When this is not possible they route "action orders" directly through administrative channels which are given the highest priority in order to assure prompt attention. The hostesses also distribute official publications, conduct tours, lecture school and civic groups, give orientation programs and lectures for new city employees, welcome visiting dignitaries, assist at conventions and other public functions involving the city government, and assist and escort citizen groups, representatives of out-of-town media, and others who visit the city to observe and study its consolidated government.

Thus, modern governmental public relations and public information programs are developing within the mainstream of local governments as service arms, rather than as propaganda arms subordinated to the usual political pressures. 100

The Boston Assessing Department deals in an essential service, one

100--The management value of such programs is seldom recognized or considered. Information and complaint centers, Ombudsmen, Little City Halls and Mobile City Halls, generate records which reflect citizen attitudes and pinpoint problems in their developmental stages. With proper analysis, problems can be detected and often resolved before reaching crisis proportions, which is of particular significance to a department like Assessing, which operates so extensively in the field.

that is fundamental in the administration and financing of local government. But it is a service garbed in technical jargon, related to terms and procedures that are difficult, even for technicians and professionals in the field, to explain or relate meaningfully to laymen. Yet, it is only to the extent that the public understands these methods and procedures, that it will support them and extend its good will to the department.

Presently, the Assessing Department makes few concessions to the public's need and right to know. Its information and public relations techniques are primitive at best and there is no formal program designed to relate the department effectively to the citizenry. While it is true that the department does handle information which must remain confidential, it is also true that too much information which ought to be made public is not readily accessible. For example, in the following section of this report we recommend that certain information relative to abatement applications be published weekly; and it should be noted in this connection that a good deal of pertinent information already is being published in the City Record. This is an official publication of record, however, (like the Congressional Record) and is neither timely nor designed for general readership. By way of illustration, the remarks of the Boston City Council President on the need for this assessing study, made November 9, 1970, were not published in the Record until February 23, 1971.

There is no reason why the Assessing Department should not establish a reception center, staffed by personable and well-trained personnel, to greet citizen-taxpayers, direct them to their proper destinations, answer questions or resolve complaints where possible, and distribute departmental literature and publications. Nor is there any reason why the Assessing Department

should not publish, as a public service, brochures explaining its responsibilities, the tax structure of the city, and a breakdown of the annual tax rate and how it is fixed.

We recommend, therefore, that steps be taken to develop an effective, professional public relations and public information program for or within the Assessing Department.

This will be imperative if the general recommendations in this report are adopted and implemented. For without public awareness of any improvements, the credibility crisis will not be resolved. Furthermore, it is our view that it is the obligation of the government to provide such services routinely, just as business and industry do in order to retain the good will and support of their clients and customers.

The Information Gap:

Recommendations

Recommendation 1: Sufficient funds should be appropriated to permit the Engineering Section to embark on a program to prepare an entirely new set of tax maps for the City of Boston. These should be laid out on map sheets in a grid fashion in order to account for each square foot of land in the city. They should include all streets and highways, all parcels of land by non-contiguous ownerships, and dimensions of each parcel where obtainable.

Recommendation 2: A new numbering system should be adopted for Assessing Department maps, using digital combinations which can be adapted readily to data processing. Each parcel on the new maps to be prepared under Recommendation 9 should be identified by an assessor's identification number combining the map sheet, block and parcel digits. This numbering system should be geographic in nature, in that parcels should incorporate a digit tied to the Massachusetts Coordinate System. These digits should indicate the centroid, or a specific corner of each parcel.

Recommendation 3: Assessing Department maps should be updated routinely on an annual basis and microfilmed for future reference.

Recommendation 4: The City of Boston should review its policy of proceeding slowly with the establishment of a central data processing complex and should accelerate the development of a municipal information system utilizing Assessing Department records as a data base.

Recommendation 5: The Assessing Department should strengthen its ties with other departments and agencies of the municipal government in order to establish clear-cut procedures whereby information about changes in land and improvements will be channeled routinely to its offices.

Recommendation 6: A master tape file of all essential assessing data should be established and changes to such data should be cleared through this master tape with print-outs distributed as needed.

Recommendation 7: An immediate start should be made to provide the Motor Vehicle Excise Tax Section and Abatement Section with data processing input capabilities to the central data processing complex. Data processing then should begin at once to process this data for departmental use.

Recommendation 8: Immediate steps should be taken to plan and prepare for new data processing applications.

Recommendation 9: Key personnel in the Assessing Department should be given a short course in data processing in order to acquaint them with the capabilities and limitations of computers.

Recommendation 10: A public information program should be established, making use of modern governmental public relations techniques, to bridge the credibility gap which now exists between the Assessing Department and the general public.

Abatement Procedures:An Overview

An abatement (as the term is used in this report) is defined as any reduction in a property owner's tax liability that is allowed after his tax bill has been presented. A reduction in liability before the issuance of a tax bill normally is considered an exemption.

In most states, allowances for tax reductions, for homestead, veterans, charitable and benevolent institutions, are handled as exemptions and the total taxable base prepared by the assessor does not include exempted properties. This is not so in the Commonwealth of Massachusetts. In Boston, a property owner can use any of 44 reasons in filing an abatement, after he has received his tax bill.¹⁰¹

Abatements in the City of Boston are allowed, according to law, or in the interests of equity, for the following reasons:

1. Where property is entitled by law to a reduction of all or part of the tax by reason of ownership, usage, etc.
2. Where property is assessed at a valuation which is in excess of its full fair cash value, or is valued at an amount which is in excess of valuations placed on similar properties.
3. Where for some special reason, the owner is relieved from a portion of the total tax of the assessed value of his property.

Abatements are processed by four different sections of the Boston Assessing Department: the Commissioner of Assessing, the Social Services Section, the Board of Review, and the Motor Vehicle Excise Tax Section.

101--As outlined in G. L. c59, s5. See pages 20-36 of this report.

Abatement Procedures:
The Theoretical Approach

Personal Abatements: The Social Services Section processes abatement applications for those statutory abatements permitted for reasons which are essentially personal in nature. Among these are abatements for the elderly, for widows (including widows and children of veterans and of police officers and firemen killed in the line of duty), and veterans themselves. These and similar classes have been declared by the Legislature to be entitled to reductions in tax liability, and in 1970 there were approximately 16,000 applications in Boston for such personal exemptions. These were broken down as follows:

TABLE 11

Clause Exemption Applications

1970

<u>Clause</u>	<u>Number of Applications</u>
17 (widows & fatherless minors)	2,500
18 (poverty stricken)	400
22 (veterans)	5,800
37 (blind)	190
41 (elderly)	7,100
42 (widows of police & firemen)	10
	<hr/> 16,000

There has been a tendency for abatements of this type to increase in the past 20 years. The major increase has been in the Clause 41 abatements which are granted to the aged whose property value and income level meet the statutory requirements. Clause 41 was enacted in the early 1960's and pressure may be expected to increase it with time. This clause provides for an annual abatement of \$4,000 of taxable value, or \$350, whichever is greater. In 1970 an individual abatement under this clause was worth

\$627.20 in Boston. In municipalities such as Boston where residential properties are assessed at something less than 100% of current value, the result of under-valuation is to make any residential abatement worth considerably more than the \$4,000 full fair cash value contemplated by the Legislature when the clause was enacted. Thus, for example, where assessments in residential properties are at 33.3% of market level, the effect of an abatement on \$4,000 of taxable value is equivalent to an exemption of three times the statutory exemption, or \$12,000!

After mailing of tax bills, those who desire a clause abatement have 30 days from the date of mailing, or until December 15, to file their applications. These are routed to the Social Services Section. Each application must be in a form approved by the Department of Corporations and Taxation, and must provide adequate information to satisfy the Assessing Department that the applicant is indeed entitled to the exemption. In addition to filing the completed forms, the applicant is requested to supply supplemental information in support of his claims. This varies from clause to clause, but usually takes the form of a birth certificate, death certificate, deed of ownership, Internal Revenue Service W-2 Form, or certified copies of IRS Form 1040, credit references, bank books, etc.

The staff of the Social Services Section reviews each of these applications and its supporting data in terms of completeness, conformance to statutory requirements, and filing date. In addition, records of other city and state departments are checked to verify statements of income, residency, monetary assistance, etc. When review of these applications is completed, recommendations of the Social Services Section are referred to

the Assessing Department's executive secretary for final action by the Commissioner of Assessing.

It should be noted that property owners must make new applications and furnish the same supporting data each year. There appears to be no permanent file of information, based on the annual applications, which could help speed the reviewing process in successive years.

After the Commissioner of Assessing approves these applications they are forwarded to the machine room where the proper electronic data processing records are prepared. Ultimately, a copy of the completed abatement information is returned to the Social Services Section where it is reviewed for correctness "when time permits." This verification of the finally-prepared abatement usually is delayed until summer months "when work loads are lighter." Such a delay often means that any clerical errors are almost impossible to revise.

Motor Vehicle Abatements: The Motor Vehicle Excise Tax Section processes abatements for overvalue and for adjustment of tax liability of motor vehicles. These adjustments also include abatements made for transfer of vehicles. Motor vehicle tax rolls and bills are prepared by the Massachusetts Department of Corporations and Taxation from the records and licenses issued by the Massachusetts Registry of Motor Vehicles, and include tax exempt as well as taxable vehicles. The rolls and bills are then forwarded to the Assessing Department's Motor Vehicle Excise Tax Section for extraction of known exempt vehicles prior to certification to the Boston Tax Collector.

Approximately 220,000 motor vehicles have been identified for 1970 tax purposes and forwarded to the Motor Vehicle Excise Tax Section. It is our understanding that, as of April, 1971, some of the owners had not yet been billed for the 1970 motor vehicle taxes, however, because the state departments responsible for their preparation had not forwarded them to the city.

After bills have been distributed by the Tax Collector, any applications for abatement are made to the Motor Vehicle Excise Tax Section on forms which are provided on the reverse side of the assessor's copy of the state-prepared bills. Once filed, these applications and their supporting data are reviewed by section personnel.

As of May, 1971, approximately 25,000 applications for abatements of this kind have been filed.

Following review, approved applications are sent (at least once every 48 hours) to the machine room where the vital information they contain is prepared on punch card forms for a monthly print-out of names and amounts of abatements. These print-outs are furnished to the Commissioner of Assessing for final approval and signature before letters of abatement are prepared for the taxpayers and the Tax Collector.

Actually, the processing of the motor vehicle abatement applications is a routine matter. But it is complicated by the large number of annual applications, and by the fact that information made available to the Assessing Department is too often incorrect or incomplete. Valuations on motor vehicles, for example, contain errors such as the same 1961 Cadillac being valued at \$550 in 1969 and at \$1,200 in 1970. Names and addresses

are found to be incorrect, and because of misspelling are impossible to find at times in the listings furnished. For example, Chrysler Leasing Corporation, normally found under "C" was listed and billed under "X" as "Xheyalwe Lwasing Corporation"!

Another illustration of such problems relates to the requirement that the Motor Vehicle Excise Tax Section staff extract from the tax rolls and bills all bills for tax-exempt organizations. Yet City of Boston vehicles may be listed as, "Boston, City of," "City of Boston," "Boston Police Department," etc. Unless section personnel are familiar with the different categories used, personal vehicles owned by city employees or officials may be included inadvertently in the exemptions. Until the processing of vehicle ownership, description, license numbers, etc., is standardized on the records used by the Department of Corporations and Taxation, all work in the Assessing Department's Motor Vehicle Excise Tax Section will continue to be unnecessarily cumbersome.

Institutional Abatements: Exemptions and abatements for governmental, charitable, and educational organizations, are processed by the Commissioner of Assessing. Those municipal, state, and such public agencies as the federally-owned properties together with those owned by public, charitable organizations which are entitled to exemptions, comprise approximately 51.9% of the total assessed value of property in the City of Boston. There are approximately 9,000 parcels in the city for which entitlement of the exemption has been established.

The proportion of the value of exempt properties to the total taxable value of the city increased from 39.6% in 1960 to 51.9% in 1969, and there

is every reason to believe that this trend will continue. This growth in the valuations of exempt properties can be attributed to the steady expansion of such exempt institutions as schools, colleges and charitable institutions, increases in the local activities of the federal and state governments, and the city's escalating involvement in public housing and urban renewal projects.

The Assessing Department processes two types of adjustments for exemption from taxes. First, there are those outright exemptions for which some initial proof of entitlement must be established (such as federal, county, state, and municipal governments and certain public corporations, authorities and instrumentalities such as the Massachusetts Bay Transit Authority, the Massachusetts Port Authority, and the Metropolitan District Commission). Second, there are those which apply to properties owned by charitable, benevolent, or educational institutions. The first group initially establishes its entitlement to the exemption; the second group annually applies for the abatement.

Normally, the process for granting the exemption for governmental and quasi-governmental properties begins upon notice of ownership by reason of a deed transfer in the County Registry of Deeds, Probate Court, or the Land Court. At this point there is apt to be some confusion within the Assessing Department. Some supervisors immediately ascribe exemption status to properties owned, for example, by the United States Government, while we were told that others require the Assistant Assessor to initiate the first checks of proof by reviewing the premises for use, lessees, opinion as to exemption, etc. When the Assistant Assessor recommends or denies the abatement, his

superiors (supervisors, District Directors and Associate Commissioners) successively do the same until the final decision is made by the Commissioner himself, who formally approves or denies a permanent exemption. Once governmental and public agency organizations are granted exemptions their properties, thereafter, are seldom reviewed.

Notice of title transfers to charitable, benevolent, and educational properties are referred to the Assistant Assessors for review of ownership and recommendation as to abatement. On the basis of his personal experience and interpretation of statutes the Assistant Assessor makes a recommendation and passes it on to his superiors for their concurrence, before the matter is finally reviewed and determined by the Commissioner of Assessing. In the meanwhile, the Commissioner's Executive Secretary checks information and income forms filed with the state and with the Department of Assessing, some of which the field staff do not see. These are attached to the field recommendations prior to the final determination by the Commissioner.

Once a federal, state, or local governmental property has been voted exempt, a change order is given to the machine room to remove pertinent records from the taxable lists and include them on the exempt listings. In the instance of charitable, benevolent, or educational organizations, the values necessarily are held constant and the owner is required to apply for abatement annually. This is done in order to assure an annual review of the owner-organization's circumstances, which may and sometimes do change from year to year.

The reliance solely upon Assistant Assessors' annual visits for changes in exempt or abatement status for either of these two groups is asking too much of the appraisers who should not be expected to be knowledgeable in the fine points of statute and case law, particularly in such a difficult area.

Over-Valuation Abatements: Applications for abatements for valuations in excess of market value or in excess of values established for similar types of properties are reviewed by the Board of Review and are forwarded to the Commissioner of Assessing for final action. In this category there were approximately 6,100 applications for abatement filed on the 1970 tax bills. During the last 10 years, however, there has been an overall reduction of about 300 of these applications and at one time during that period as few as 3,890 were filed.

While the Assessing Department has not classified these appeals by type or use, we estimate that at least 90% of the applications represent apartment houses (five units or more), commercial, industrial, and special purpose and vacant properties.

TABLE 12

Applications Filed
For Over-Valuation

<u>Tax Year</u>	<u>Number</u>	
1970	6,100*	
1969	5,840	
1968	5,050	
1967	4,763	
1966	4,465	
1965	3,890	
1964	4,527	
1963	4,648	
1962	5,502	
1961	<u>6,439</u>	
	51,224	<u>*Approximate</u>

These figures are significant in respect to the 1957-1959 equalization program which was designed to revalue and correct inequities in some 25,000 non-residential parcels. Despite this, in the following decade, abatement



applications were filed on some 18 to 23% of the parcels which had been studied in the equalization program. It would be expected that fewer abatement applications of this kind would have been filed under the circumstances, perhaps as low as 2% under normal circumstances.

Reviewing 1970 applications for abatements, we note that attached to nearly all we studied there was a copy of the new Assessing Department Form 1040 on which information is requested relative to rents and expenses. The filing of this form is now a condition precedent to the granting of an abatement. (See Acts of 1970, Chapter 118.)

The present Commissioner of Assessing, in calculating current abatement count totals, includes those properties for which "tax agreements" have been made in the last 12 to 13 years. For this reason abatement applications since 1967 have increased somewhat over 1965-1967 levels. This is being done as a means for reviewing these agreements through the abatement process.

Application for abatement by reason of over-valuation or valuations that are not comparable with similar properties also are received and processed by the Board of Review. As noted previously, there were approximately 6,100 of these filed for the 1970 tax bills. These represent appeals from assessed valuations set as a result of pre-construction or pre-rehabilitation tax agreements, as well as for claims of over-valuation and inequitable value.¹⁰² Since 1968 any reduction in valuation in accordance with such agreements is and has been processed by the Board of Review in the same manner as over-valuation abatements.

102--See pages 108-124 for a discussion of these agreements.

After a tax bill for property is mailed, a taxpayer has 30 days from the date of mailing to file for an abatement or reduction of valuation. The application is made on a form approved by the Department of Corporations and Taxation, which asks for information relative to cost; purchase price, rents, expenses, etc. The owner's opinion of value also is required. After completion, the taxpayer delivers his application to the Board of Review file room where it is given a serial number and marked with date of receipt. Duplicates with the same identification are returned to the taxpayer.

On receipt of the application the file clerk prepares a 5 x 8 card with street address, ward and parcel number, assessed valuation, owner's estimate of value, and date of filing. Provisions also are made on this card for inclusion of Appellate Tax Board case number, date of filing disposition, ultimate abatement granted, and date of abatement when these actions take place. Information on these cards is sufficient to provide a 20-year history of an abatement application. In addition to these cards, legal-size, manila jacket-envelopes are prepared to hold all abatement applications for past or current years, together with any office computations and attached action papers. Normally, index cards and jackets are filed by ward and street address.

When file room clerical work has been completed, applications are forwarded to the proper District Director who in turn distributes them to the appropriate Assistant Assessors. Theoretically, these street men, their District Directors, the Board of Review and the Board of Assessors should act on each application within three months of its filing date. However, in many cases this is not done. One reason for this, we discovered, was

that jackets for particular parcels are being removed from the files with no record to indicate where they are, although the department has established a procedure for noting the disposition or location of any files that are withdrawn for review.

On receipt of abatement applications Assistant Assessors are supposed to review the current assessment, estimate a new fair cash value, if necessary, and recommend appropriate action. The District Director is then supposed to repeat this process and reach his own conclusions regarding approval or disapproval of the application. Meanwhile, the taxpayer is asked to complete a new Assessing Department form "1040" in which he is required to furnish current rent and expense schedules,¹⁰³ for use in the abatement calculations. In their computation of valuations, both Assistant Assessors and District Directors should develop all information necessary in regard to each appeal. The Assistant Assessors and District Directors then should apply their own appraisal formulas. However, it is evident that this is not being done since presently used binders or permanent street property record cards do not contain the information necessary to calculate any of the three principal appraisal approaches. It is apparent, therefore, that neither the street men nor the District Directors are using the supplemental information acquired on the abatement applications and the 1040 forms.

103--The 1040 forms are mailed after September of the tax year involved, and the taxpayer is expected to provide rent schedules based on the new August or September rents. (In Boston, rents usually are changed in the late summer or early fall.) Thus, the abatement calculations are based on the income and expenses of the year following, and not the year preceding, the tax date.

After the Assistant Assessors and District Directors complete their work and make their recommendations, the Board of Review--either by individual action or functioning collectively--reviews the results. Taxpayers, meanwhile, can petition the Board for a hearing if this is desired. After such a hearing, or when the Board reaches its decision in the matter, its own recommendation is forwarded to the Commissioner of Assessing. It should be noted, however, that during the course of its review, members of this board act individually to gather information and apply their own formulas in determining values. Thus, before the Commissioner of Assessing finally grants or denies an abatement, there actually are three levels at which values are reviewed, and at each of these levels, theoretically, information, valuation formulae and value estimates are developed separately.

When the abatement process is completed and the Commissioner grants or denies an application, this information is forwarded to the department's machine room where the data processing records are prepared, abatement notices are issued, and abatements are summarized by ward and type.

Overlays: For a number of years the Finance Commission has stressed that Boston has an overlay problem. In its 1969 annual report, the Commission stated: "An overlay, briefly, is an amount appropriated each year to provide for possible abatement of taxes. Boston, in recent years, has chosen to use 5% of net requirements in the tax rate computation (the minimum amount allowed by law) as the amount to be raised by taxation to provide for such an overlay." The Finance Commission also pointed out

that Boston had been experiencing overlay deficits for a number of years and raised the question of why the city did not use 6% as permitted by law rather than continuing to use 5%. It should be noted that 6% was used in 1970. The 1971 rate has not yet been set.

In the ten-year period from 1961 to 1970, tax abatements amounted to a total of \$101,941,539, or nearly \$10,200,000 a year on the average. As may be seen in the following table, this sum has fluctuated considerably from year to year.

TABLE 13

Abatements Granted, City of Boston

<u>Year</u>	<u>Amount</u>
1961	\$ 6,534,505
1962	7,901,144
1963	7,184,051
1964	6,920,433
1965	11,799,811
1966	7,897,926
1967	10,386,037
1968	9,627,760
1969	18,796,442
1970	14,833,430
Total	<u>\$101,941,539</u>

The makeup of the abatements is noteworthy. In 1969, when nearly \$18.8 million was returned to taxpayers through abatements, \$5 million was on over-valuations, and of this sum more than \$3.6 million was on Penn-Central railroad abatements. Another \$1.9 million was due to ATB cases settled after withdrawal of the case and only \$109,000 on ATB decisions. The unusually high \$3.8 million abated in 1969 as uncollectable was an effort to clear up the books. The majority of the abatements,

totaling nearly \$10 million, were due to so-called clause abatements-- for widows, the aged and infirm, etc.

As has been suggested elsewhere in this report, and implied in the 1948 Reeves Report, there is no good reason why these clause abatements should not be treated as exemptions. If this were done, applications for the clause exemptions would be made, reviewed, and where warranted, granted prior to the establishment of the tax roll. The valuations themselves would be reduced by the amount of the exemption. For example, an elderly property owner entitled to the \$4,000 exemption who owned property valued at \$10,000 would have that value reduced to \$6,000 and his tax would be calculated on that amount. At present his tax is calculated and collected at the full \$10,000, and later he is entitled to a refund of the tax paid on the \$4,000 portion which is exempt.

This procedure results in a great deal of unnecessary work in assessing and collecting a tax which will later be refunded. It also gives a false picture of the taxable valuations and the tax rate. Thus, in 1969, nearly \$11 per thousand was needed in Boston merely to collect funds for later return to taxpayers in the form of abatements, and more than half of this collection would not have been needed if all abatements, other than those for over-valuations, had been handled as exemptions.

Consequently, it is our recommendation that changes in Massachusetts law be sought in order to make possible the treatment of clause abatements as exemptions. We would also suggest that efforts be made to simplify the processing of exemptions. For example, in the Clause 41 (elderly) abatements a large number of changes have been made in the original 1963

law. Each change has made the procedure more cumbersome by requiring more exacting efforts on the part of the Assessing Department to process the abatement applications.

Abatement Procedures:

The Actual Approach

The theory of how abatement applications should be processed and reviewed by the Assessing Department, differs considerably from actual practice. Our investigation reveals that theoretical procedure is followed only by the most conscientious Assistant Assessors and District Directors. For the present system discourages routinely effective or valid appraisals, and only those personnel willing and competent enough to assume the burden of additional research and labor can perform professionally despite the system. Factors revealed during our survey of the Assessing Department which bear this out include the following:

Inadequate Information: There is little or no information in the 1970 or 1971 street binders on which a rational determination of value may be made. Through custom and usage, abatement applicants have been permitted to file incomplete application forms containing only the name of the taxpayer, his address and property, ward, and parcel numbers, and the amount of his tax. The blank spaces allocated on the forms for income, expense and other financial information usually are blank and bear the notation "to be supplied on request."

Our examination of a sampling of street binders furnished little evidence of information which could be used as a basis for calculating assessed valuation. There was no factual information on property improvements; and no description of neighborhood utilities or public services available. In most cases there was little on rents and nothing

on the physical condition or economic factors affecting the value of any improvements. Transfers of title and sales prices were noted, but nothing was included in the binders about new construction permits. There was no data, either, by which sales of properties could be compared with unsold properties.

Faulty Appraisal Techniques: While supplemental information, such as that contained on the department's Form 1040, is collected, we find that this data is not verified against the taxpayer's records or checked with occupants of a property in question. For example, when we examined one group of abatement applications in the field, we found that old binder sheets indicated the rents on certain properties to range from \$45 to \$55 per month per apartment. The department's Form 1040 listed these same apartments at rentals of \$70 to \$75 per month as of August-September, 1970. However, when we interviewed occupants, they stated that the rents being charged actually ranged from \$95 to \$115 per month. A number of these applications lacked the signatures of the Assistant Assessors or their recommendations in respect to the amount of value to be abated. In only one instance had the District Director noted his own recommendation and added a signature. Thus, it was apparent that the District Director had made no effort to verify income or expenses, or to develop an independent control in the appraisal of the property involved.

In obtaining our own verification on one property for which an application had been filed, the adjacent property was checked. It was found to be identical in usage, size, shape, design, height, size of lot,

number of apartments, rents, and even color. The only apparent difference between the two was in ownership. No appeal had been filed on the adjacent property and it carried an assessed valuation of \$13,000 (within 5% of the typical market price for a property of that size by Income, Market Value, and Replacement Cost Approaches). The property for which an application had been filed was assessed at \$11,000, and the District Director had recommended an abatement to \$8,000. Yet there had been no attempt to consider equity in the matter, and no information was available in the binders for that neighborhood which would have indicated that these properties were almost identical.

Thus, under the present unreliable system, field review of sites and available data are necessary both for verification and as a basis for equity, even when there might appear to be adequate data in the street binders.

Summarizing our conclusions as a result of this field survey of abatement applications, we find that:

1. There is inadequate basic information recorded which may be used to determine value or make assessments.
2. Full fair cash value can best be ascertained uniformly by use of Income, Market Value and Replacement Cost Approaches.
- 3. Street men are not reviewing abatement applications uniformly, let alone placing equitable and consistent values on properties.
- 4. District Directors are not reviewing abatement applications uniformly or making equitable determinations of value.
- 5. District Directors apparently are not supervising their street men in such a manner as to assure that equitable assessed valuations will be obtained.

Inconsistency in Appraisal Approach:¹⁰⁴ Our review of abatement applications revealed that at least six appraisal "methods" appear to be in use by Assessing Department personnel for determining the assessed value of property. Of these, two methods are essentially variations of the Income Approach. These various methods are described as follows:

1. The Income Approach.
2. Use of a form of gross income multiplier in which the actual tax is computed as a fixed percentage of the economic rent and the assessed value is determined by dividing the percentage of gross rent by the current tax rate.
3. A percentage of the purchase price.
4. A percentage of the cost new.
5. The largest assessed value the appraiser can place on the property before the taxpayer complains or absolutely refuses to pay the tax and goes to the Appellate Tax Board.
6. The use of any method or valuation technique that the individual appraiser feels will be acceptable to the Appellate Tax Board.

These methods have been discussed at length in the previous section of this report concerning the appraisal function.¹⁰⁵ They are mentioned here because much the same criteria are used in judging
→ abatement applications as are used in the original assessments. With abatement applications on 18 to 23% of the commercial, industrial, and apartment properties (five units or more) being filed each year there is something definitely wrong with this appraisal system and the lack of uniformity and inequitable valuations which result.

104--See pages 72-74 for a review of the three acceptable appraisal approaches.

105--See pages 96-103.

Unsatisfactory Follow-Through: Our survey of completed abatement application forms and the index cards on which the histories of previous abatement applications were noted, together with their dispositions, revealed that once abatements are approved by the Board of Assessors the adjustments are forwarded to the machine room for data processing. However, the Board of Review file room records demonstrate that where abatements were granted for over-valuation, there was no change order issued, or the Assessing Department neglected to change its assessed valuation records to reflect the change in valuation for subsequent years. This failure to adjust valuations, and the annual appeals which follow as a result, are understandable in respect to those properties where exemption or abatement depends on personal, owner, financial, or other circumstances. We cannot understand, however, why, once the Assessing Department judges a property to be over-valued in one year and corrects the value through an abatement, that the new or corrected value should not stand until there is some general review of such valuation for administrative or economic reasons. The only logical answer seems to be that the Assessing Department chooses to deal with the taxpayer annually in the hope, perhaps, that in some years it can → obtain "a better deal for the city," through a higher tax bill. If this is the case, then the department can only be acknowledging the fact that it has no system of appraisal and can arrive at values only on the basis of its ability to negotiate.

This continued failure to record the valuations after abatement are made and the subsequent abatement of the same property in successive

years is shown for a few properties in Table 14, following, which was constructed from files of the Finance Commission.

Unrealistic Use of Available Data: In examining the abatement applications and the procedures used in processing them, we were surprised to note how much basic information which is required for proper evaluation of an application is lacking. Because of this, when an appeal was made it was necessary to refer applications repeatedly back to the field men and their supervisors in order to fill in data gaps as a basis for any new abatement recommendations an investigation might warrant. Furthermore, there was no way to compare one property with another; and each property had to be reviewed separately in the light of such additional information as might be uncovered in the course of the review.

At present, the information that has been accumulated in the Assessing Department office is helpful for making an appraisal or analysis of an individual property, but it is not useful in appraising similar properties. Data available in the office but not in the street binders such as new construction permits and abatement applications from previous years, were not utilized in evaluating applications for abatement filed on the same properties in succeeding years. The utilization of this data would be helpful, but nevertheless the basic information gathered for each individual property is insufficient to establish any standard or unit of value which can be applied to similar properties in the same block or neighborhood. As a result, much extra effort is expended in reviewing applications for abatements due to alleged over-valuation.

TABLE 14

Selected Properties for Which
Valuation After Abatement Was
Not Carried Over To The Following Year

<u>Property and Year</u>	<u>Original Valuation</u>	<u>Valuation Abated</u>	<u>New Reduced Valuation</u>
474 Atlantic Avenue			
1970	\$3,000,000	\$ 850,000	\$2,150,000
1971	3,000,000	850,000	2,150,000
160 Mt. Vernon Street			
1967	1,425,000	500,000	925,000
1968	1,425,000	425,000	1,000,000
1969	1,425,000	420,000	1,005,000
145 Pinckney Street			
1966	1,400,000	200,000	1,200,000
1967	1,400,000	200,000	1,200,000
1968	1,400,000	300,000	1,100,000
139 St. James Avenue			
1966	3,100,000	200,000	2,900,000
1967	3,100,000	200,000	2,900,000
1968	3,100,000	200,000	2,900,000
155 Brookline Avenue			
1966	4,790,000	200,000	4,590,000
1967	4,790,000	200,000	4,590,000
1968	4,790,000	200,000	4,590,000
1370 Boylston Street			
1966	390,000	20,000	370,000
1967	390,000	20,000	370,000
1968	390,000	20,000	370,000

TABLE 14 - Cont'd.

<u>Property and Year</u>	<u>Original Valuation</u>	<u>Valuation Abated</u>	<u>New Reduced Valuation</u>
SWS Accolon Way			
1966	\$4,100,000	\$1,250,000	\$2,850,000
1967	4,100,000	1,250,000	2,850,000
1968	4,100,000	1,250,000	2,850,000
477 Washington Street			
1966	1,300,000	325,000	975,000
1967	1,300,000	325,000	975,000
1968	1,300,000	325,000	975,000
76 Causeway			
1966	1,063,900	300,000	763,900
1967	1,063,900	300,000	763,900
1968	1,063,900	300,000	763,900
68 School Street			
1966	3,400,000	900,000	2,500,000
1967	2,500,000	800,000	1,600,000
1968	2,500,000	800,000	1,600,000

In summary, abatements seem to have become a way of life for the larger apartment, commercial and industrial properties in Boston. We doubt the need for this however. Evidence in other cities indicates that the adoption and use of uniform and equitable standards and appraisal techniques, together with the determination of the department to follow and enforce these standards and procedures regardless of pressures brought upon it, will result in their acceptance by the taxpayers and ultimately will obviate the need for many abatements.

Not all of the blame for the existing poor state of the current system should fall on Assessing Department personnel. Assessment standards were prepared for all types of properties as a basis for the 1957-1959 Boston equalization program.¹⁰⁶ Since the completion of that program, however, these standards have not been updated. In fact, they appear to have fallen into disuse. This became evident when we asked District Directors to produce their copies of these assessment standards. Only three complied, and of their copies, only one showed any signs of use whatsoever. This single copy contained a variety of notations concerning special costs, changes in rents, multipliers, etc., which apparently represented an accumulation of the Director's experience and the results of his continuing analyses. The remaining District Directors stated, in effect, that their copies of the standards has been "furnished 10 years ago, but weren't being used."

It does not seem fair, however, to fault field personnel for their failure to use proper techniques, or for the inequities which follow,

106--See page 85 ff.

when the Assessing Department has not developed and adopted up-to-date appraisal standards and techniques for their guidance and use. This system, in penalizing taxpayers, fosters a community dependency on abatements and accounts for the annual flood of appeal applications which must be processed by the department. Thus, a vicious circle is closed, and the department itself becomes the ultimate victim.

Abatement Procedures:

Recommendations

Recommendation 1: All abatement applications and records, together with supporting documents, should be kept in one file room in the Abatement Division. This should be a maximum security area with access limited to the division chief, the executive secretary of the Board of Assessors, and authorized file room personnel. The need for such precautions is evident in the fact that lack of such safeguards at present has resulted in removal of records without the posting of information which would make it possible to trace or locate them. Consequently, there have been instances when taxpayers have had to supply duplicates of their abatement applications to replace originals which were lost or misplaced. Security, therefore, should extend to all source documents, and file room personnel should retain control over their use under all circumstances.

Recommendation 2: Abatement application forms should be numbered serially and stamped with date and time of receipt. Before requests for review are made the abatement serial number, the ownership, location, parcel number, date of receipt, and type of abatement should be recorded on magnetic tapes. This data should be transmitted each day as received to the machine records room or Central Data Processing. This procedure will make possible preparation of a weekly status report which should be made public as it is published, and which will have value both as an administrative control and as a public service.

In connection with this report, the Abatement office should maintain an "appearance file" or log for attorneys or other owner-representatives, and their names should be included in the weekly status report.

Recommendation 3: Abatements for excessive valuation should be granted only where it is demonstrated that appraisals do not follow accepted procedures, or where valuations are incompatible with the typical market or with similar properties in a neighborhood. An abatement should not follow from a process where an assessor, having "guessed" once, is requested by the taxpayer to "guess again, only lower."

Recommendation 4: Until such time as appraisal standards and procedures are adopted and utilized uniformly, the Commissioner of Assessing should institute a procedure whereby reductions in valuations are recorded on the master data processing records whenever an over-valuation abatement is granted.

Recommendation 5: When an over-valuation abatement is granted by the Appellate Tax Board the Commissioner of Assessing is required to carry the new value for a period of three years unless conditions affecting that property (such as new construction, alterations or demolition) changes its value. The burden of proof in such a change falls upon the Commissioner.¹⁰⁷ We recommend that this same procedure be instituted by the Boston Assessing Department for properties which it abates on an over-valuation. There appears to be no sound reason for the practice of abating a property one year, only to return to its pre-abatement value the following year. A three-year value span after

abatement, of course, requires that the initial abatement be granted only after a careful and thorough review of the property and all pertinent facts relating to it.

Recommendation 6: Clause abatements should be treated as exemptions and changes should be sought in Massachusetts law to accomplish this. At the same time, efforts should be made to simplify the processing of exemptions which has become too complicated and cumbersome a procedure.

Part IV

CURRENT ORGANIZATION OF THE
BOSTON ASSESSING DEPARTMENT:
CRITIQUE AND RECOMMENDATIONS

Summary of Findings

1. Lines of authority and responsibility are not clear-cut. Basic administrative procedures are lacking, and managerial spans of control in some instances are extremely cumbersome, thereby preventing competent supervision and administration. For example, the Commissioner of Assessing exercises a direct span of control over some 15 to 17 key personnel; and the Senior Administrative Assistant in the Administrative Services Unit supervises 17 to 19 employees.
2. Management control and supervision of field personnel ranges from limited to non-existent.
3. Partly as a result of legislative changes, the Board of Assessors has fallen into disuse; however, it does have considerable powers for reorganization to resolve the department's administrative problems.
4. Research, which is so fundamental in the appraisal process, has been severely restricted and has tended to deteriorate almost to a point of non-existence.
5. Currently, the Board of Review is without any direct assistance in determining the validity of abatement applications, a circumstance which often requires that assessors be called in from the field, thereby interfering with their work.
6. Although 23 years have passed since the Reeves Report, and 10 since the last ordinance was passed for reorganizing the department, few organizational improvements have been attempted or effected.
7. In order to reward personnel for meritorious service, classifications and pay levels have been upgraded without appropriate changes in duties or responsibilities. Consequently, many department personnel, particularly those in clerical occupations, do not have assigned duties which fall reasonably within the scope of responsibilities delineated for their classifications by the approved civil service regulations.

8. The fact that so many improperly defined positions exist within the Assessing Department is demoralizing. Affected personnel are not certain of their responsibilities or even who their direct supervisors are in some cases; nor do they know exactly what is expected of them.
9. At present, available office space is generally adequate. However, the Engineering Section is somewhat cramped and needs room for expansion as well as better security in its file areas.

Summary of Recommendations

1. There needs to be a thorough restructuring and reorganization of the Assessing Department, and this should be started at once.
2. The reorganization should include the reassignment of personnel, the delineation of responsibilities, and the establishment of administrative and management procedures at all levels necessary to enable the Assessing Department to carry out its basic function more effectively.
3. The department should be structured around three divisions: Appraisal, Administration and Abatement, with Associate Commissioners in charge of the first two, and the Chairman of the Board of Review in charge of the third.
4. The Commissioner of Assessing should be given a professional staff to assist him directly in his management and administrative duties, and that staff should include the department's own legal counsel, and the Research Assessor.
5. Research should become a staff, rather than a line function, in order to revitalize this much-needed service and make it more functional within the department.
6. The Mayor's power of appointment, in respect to the Board of Review, should be broadened to allow him to select the first member from the appraisal staff, and the second from the department at large (rather than from the research staff). The third, or lay member, should have a background in real estate or a related field, should have no other direct connection with the municipal government, and should be paid on a per diem, instead of a salary basis.
7. A small staff should be assigned to the Abatement Division to function as a Value Adjustment Section. The staff would consist of a District Director and two supervisors who would screen and review all applications, working under the direction of the Chairman of the Board of Review.

8. The Administrative Division should be composed of three sections: Information Services, Office Services and Engineering Services.
9. No member of the Appraisal Division should be authorized to report directly to the Commissioner of Assessing except for the individual selected from the division to head the Board of Review and serve as chief of the Abatement Division.
10. The Appraisal Division should be divided into two sections, for Real Property and for Personal Property.
11. Since the Motor Vehicle Excise Tax is essentially a levy on personal property, the unit should be placed under the Appraisal Division.
12. Civil Service classification problems in the department should be resolved on the basis of a study to be conducted under the auspices of the Finance Commission, the Administrative Services Department or the Assessing Department.
13. Formal disciplinary procedures for personnel should be established and adopted; and a code of conduct for employees should be enforced. Civil Service problems of the department which are similar to those in all city departments, should be relieved by legislation designed to allow Boston to establish its own civil service and personnel administrative system.
14. A detailed in-house space utilization study should be conducted by department personnel with the assistance of the Public Facilities Department and the Boston Redevelopment Authority. This study should concern itself with the possible application of microfilming, micromation, and data processing as vehicles for reducing space now reserved for bulk storage, as well as being vehicles for improving overall department operations.
15. Senior career civil service employees should be assigned as administrative assistants to each appointed official in the department to assure that a degree of expertise and management continuity will be retained as these officials come and go.

16. The recommendations in this report should be adopted and steps should be taken immediately to implement them. Chief among these should be immediate establishment of an ad hoc Follow-Up Committee, and appointment of its membership by the Mayor, to assist the Commissioner of Assessing in the reorganization of the department.

Critique

An organization may be described as a series of relationships, both formal and informal, by which effort is directed or channeled to achieve a stated goal or goals. There is no such thing as an "ideal" organization which is best for all purposes under all conditions; no such thing as an organization so perfect it can survive indefinitely without the need for at least occasional restructuring to meet the demands of changing times or of new priorities or goals.

Thus, while each organization needs to be structured to fit the task at hand within a contemporary time frame, its internal relationships and modus operandi should neither be so loose nor so tight as to restrict communications or to hamper those creative administrative processes whereby internal changes and adjustments are made in the interests of continuing efficiency and effectiveness.

While there is nothing magical about an organizational structure per se, there are certain well-known guidelines for establishing a viable organization. To begin with, there should be clear-out lines of authority and responsibility; and authority should be commensurate with responsibility. Similarly, the span of control of the manager needs to be kept within reasonable limits; that is, those limits necessary for him to establish and maintain control over his subordinates. While organizational theorists do not agree upon the ideal span of control, it is generally conceded to be approximately five to seven subordinates. Where the tasks of the subordinates are very complex and disassociated

a five to seven span of control may be too great; where they are simple, a good manager may be able to supervise considerably more than seven subordinates.

But managerial spans of control have no meaning if, within their context, personnel do not clearly understand their duties and the relationship of those duties to the overall functions of the organization. Lacking precise definitions of the tasks and responsibilities assigned to them, personnel--whether in key or routine positions and classifications--will not know how to act or react under changing conditions and circumstances, and the organization will lack operational predictability. Such an essential failing will tend to render meaningless the priorities and goals established at policy-making levels, since the organization may not be capable of achieving them.

The current organizational structure of the Boston Assessing Department is deficient in a number of ways which will need to be corrected.¹⁰⁸

Lines of responsibility and authority are not clear-cut.

There is also considerable evidence that the tasks of the department have not been carefully analyzed and divided into meaningful work assignments whereby staff specialization can be achieved and operational predictability maximized.

In some instances, like and similar activities are not grouped, and follow-through on a project tends to be left more to chance than design. In at least two instances the managerial span of control is too great by any standards which may be applied. In the Statistical Machine Operations

108--See fold-out Chart V, page 193.

Unit there are, in fact, two people in charge, and although it must be admitted that these two have informally developed workable divisions of responsibility and appear to function relatively smoothly, this is not sound administrative practice. Dual authority is dependent upon the mere ability of the two personnel involved to get along with each other and rarely works in the long run.

Vastly more important to the Boston Assessing Department than this instance of dual authority is the general practice, dictated by necessity, of utilizing personnel in the field. Whenever an organization requires that key personnel function primarily on their own away from its headquarters, it becomes absolutely essential that methods and standards be developed to measure and routinely check on the quality and quantity of their work. To do otherwise is to invite haphazard performance--a factor which undermines an organization's functional predictability, reliability, and effectiveness. Nevertheless, the Boston Assessing Department's assistant assessors who operate in the field traditionally have been left largely to their own devices. Supervision and control of their work have ranged from limited to nonexistent.¹⁰⁹

This problem can be traced, in part, to the Commissioner of Assessing's excessive span of control. It is difficult to determine precisely how many people are responsible directly to the Commissioner. But an analysis of organizational relationships indicates that between 15 and 17 people report directly to the Commissioner from within the department, while up to three members of the city's legal staff assigned to the department may also be working directly with him. Furthermore,

109--See pages 75-88.

those department personnel reporting to the Commissioner come, for the most part, from the operations units, forcing him to utilize line personnel for staff work, to the inevitable detriment of their primary tasks.

The Senior Administrative Assistant has an even larger span of control with some 17 to 19 subordinates reporting to her.¹¹⁰ In either case, however, the number of subordinates varies because there is a lack of agreement on the placement of the Motor Vehicle and the Social Services Units.

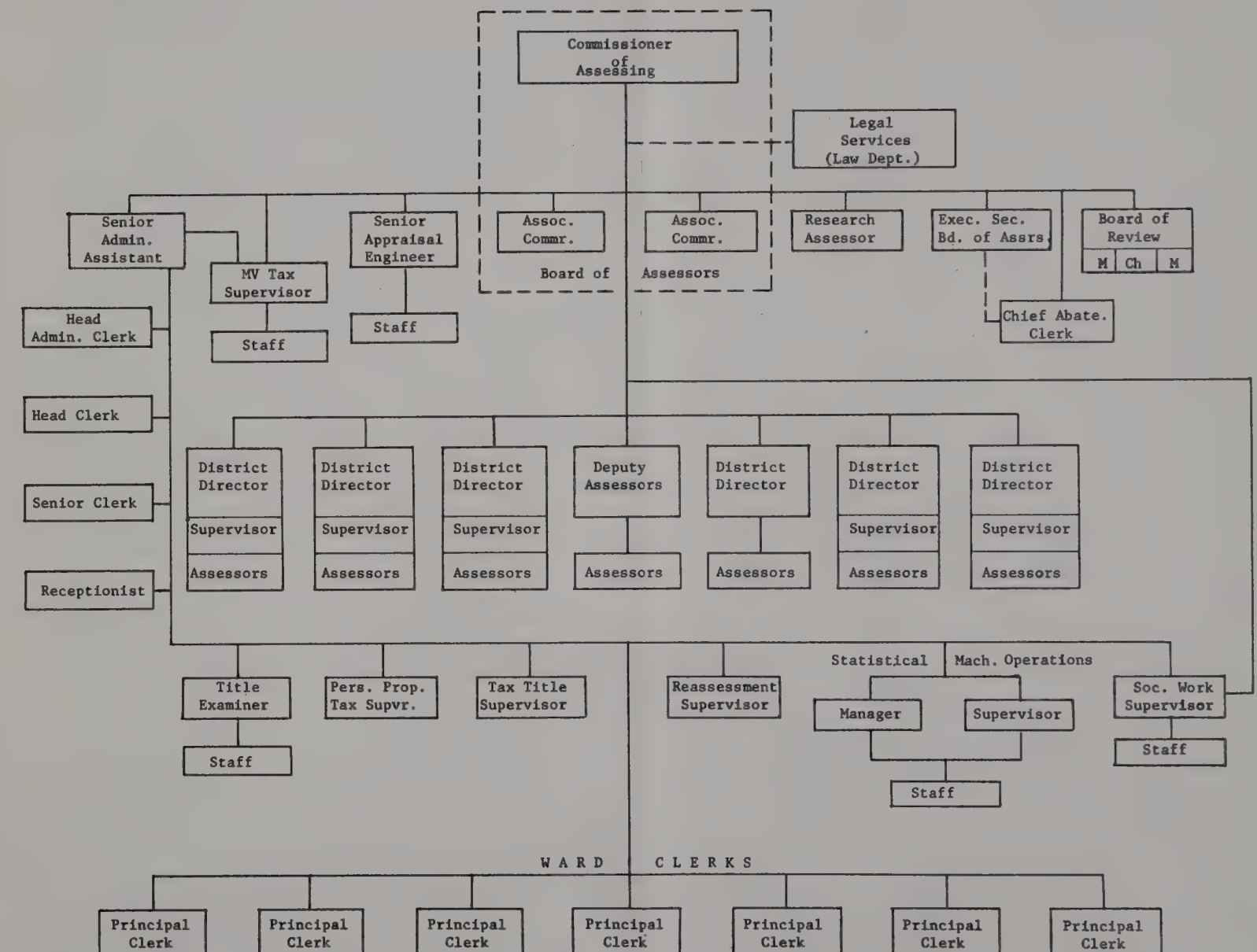
The first of these units provides a good illustration of the organizational confusion which exists in the Boston Assessing Department. The Senior Administrative Assistant feels that the supervision of the Motor Vehicle Excise Tax Unit is one of her responsibilities. But the supervisor of the unit believes that she is directly responsible to the Commissioner. On the other hand, it is stipulated by ordinance that one of the Associate Commissioners is to be responsible for the Motor Vehicle Excise Tax Unit.

As noted earlier, the Commissioner of Assessing and the Mayor's Home Rule Commission have recognized the need for some organization restructuring of the Assessing Department. They recommend a strengthening of the role of the Board of Review and a greater utilization of the two Associate Commissioners in the direct administration of the department.

We concur with these recommendations. However, we feel that they do not go far enough. Consequently, we propose a more fundamental and far-reaching reorganization designed to make maximum use of current personnel and practices while minimizing the need for changes in existing law.

110--Interesting, though not particularly significant, has been the evolution of the department into male and female segments over the years. Thus, with few exceptions, men report to men, women to women; except those distaff members who work directly with the Commissioner.

PRESENT ORGANIZATIONAL STRUCTURE - ASSESSING DEPARTMENT



Based on the consultant's position classification questionnaire survey and from interviews with department personnel, this chart is a reasonably accurate portrayal of how the Assessing Department currently is structured and organized. Obviously, this differs considerably from the structure as outlined in the 1961 ordinance and as described in other sources referred to on pages 27-30 of this report.

Recommendations:
General Reorganization

Activities of the Assessing Department fall naturally into three functional areas: (1) Appraisal, (2) Administration, and (3) Abatement. Accordingly, it is recommended that the department be structured along these same lines, as shown in Chart VI, following.¹¹¹

The two Associate Commissioners would be relieved of their duties in processing abatements and given administrative assignments. One of the Associate Commissioners would be placed in charge of the Administrative Division, and the other would be placed over the Appraisal Division. The third major operational entity, the Abatement Division, would be headed by the chairman of the Board of Review, since this division would also constitute the Board of Review.

In addition to the three operating line divisions, it is proposed that the Commissioner be provided with staff support in the areas of executive and research assistance, and records and legal assistance. This would reduce the Commissioner's span of control from the 15 to 17 personnel who currently report directly to him, to five. Meanwhile, initially at least, the Commissioner and two Associate Commissioners would continue to function as the Board of Assessors.

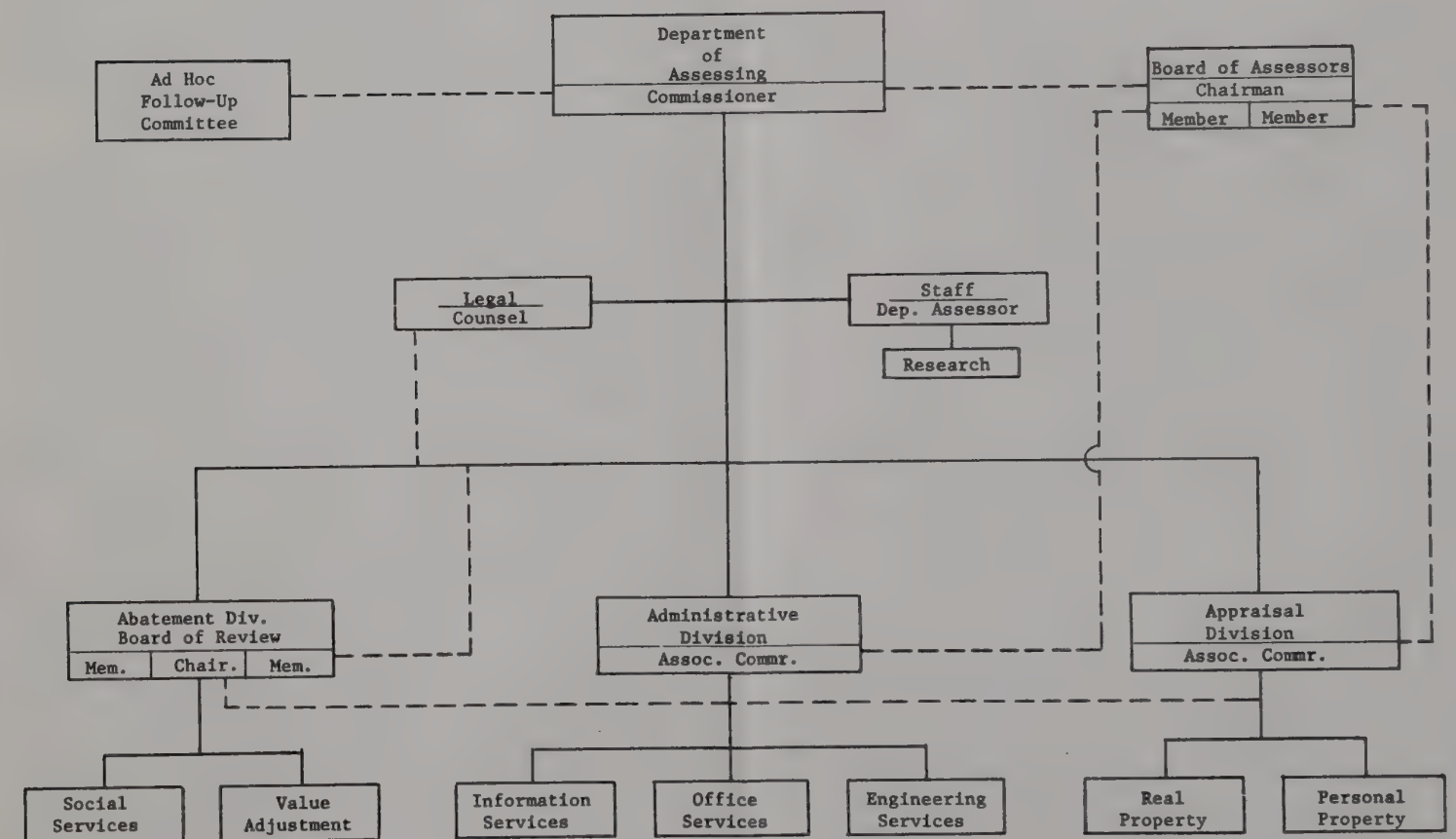
In this respect, since by virtue of the 1961 ordinance¹¹² the Board of Assessors already is vested with the power to reorganize the department, it is suggested that this board be utilized to effectuate those

111--See fold-out Chart VI, page 196.

112--Op. cit., Doc. 34-1970 (City of Boston); see Appendix III.

organizational changes which can be made administratively. Wherever possible the organizational changes recommended in this report are designed to take advantage of this administrative flexibility to structure the department as needed. However, for all practical purposes, the Board of Assessors has not functioned as a board for some time, and it is recommended that at such time as a revised ordinance for the departmental organization is submitted to the City Council, the Board of Assessors be abolished and the authority to establish such organizational units as may be required for the effective administration of the department be transferred to the Commissioner.

PROPOSED ORGANIZATION
CITY OF BOSTON DEPARTMENT OF ASSESSING



Recommendations:
Office of the Commissioner

Chart VII ¹¹³ depicts the recommended organizational structure of the Office of the Commissioner. Currently, the 1971 budget of the department calls for a Deputy Assessor. The incumbent, however, is now serving in the same capacity as a District Director of Assessors, but will soon be retiring. Accordingly, it is our judgment that this would be a propitious time to initiate certain staff realignments and to appoint a new Deputy Assessor who would serve as the Commissioner's executive assistant and strong right arm. It is further suggested that the department's research activities be placed under the Deputy Assessor, along with a clerical pool of three personnel.

Technically speaking, transference of research to the Deputy Assessor would require an ordinance revision since the present ordinance calls for a Research Division. In fact however, until recently, when one assistant was acquired, the only employee of the so-called Research Division was the Research Assessor. Since the current ordinance also requires that one member of the Board of Review come from the Research Division, the Research Assessor in the past has had to fill two time-consuming jobs single-handedly. Lacking clerical assistance as well as such fundamental tools as a calculating machine, research in the department has not only been severely restricted but has tended to deteriorate almost to a point of non-existence.

Nevertheless, we believe that the research arm of the department can be revitalized and brought up to a level of acceptable standards by

113--See fold-out Chart VII, page 200.

recognizing it as a staff function of the Office of the Commissioner. Furthermore, in order to more greatly enhance the Assessing Department's research capability, and to give the Mayor more flexibility in selecting a department member for the Board of Review, it is suggested that the ordinance requirement that this member come from the research Division be broadened to any professional staff member from the department as a whole.

Turning now to the Assessing Department's continuing needs for legal assistance, these are met by the city's Legal Department which assigns attorneys to Assessing as required. To begin with there are numerous legal matters relative to assessing which must be dealt with on a day-to-day basis including representation before the Appellate Tax Board and other judicial bodies. In addition, the growth of federal and state law relating to property taxation and exemptions is such that the department could make good use of a full-time legal counsel who would specialize in the field of property tax law. Consequently, we are of the opinion that such a staff position should be created in the Office of the Commissioner, and that it should be appointive and properly budgeted in the Assessing Department's payroll.

Such a move would necessitate designation of the Department Counsel as an Assistant Corporation Counsel by the city's Corporation Counsel; and it should be stipulated that the Department Counsel would be entitled to such assistance and guidance as he might need from the Law Department.

Creation of the position of Department Counsel would, of course, entail some additional expense. But this would tend to be offset by releasing Law Department personnel now working on assessing problems

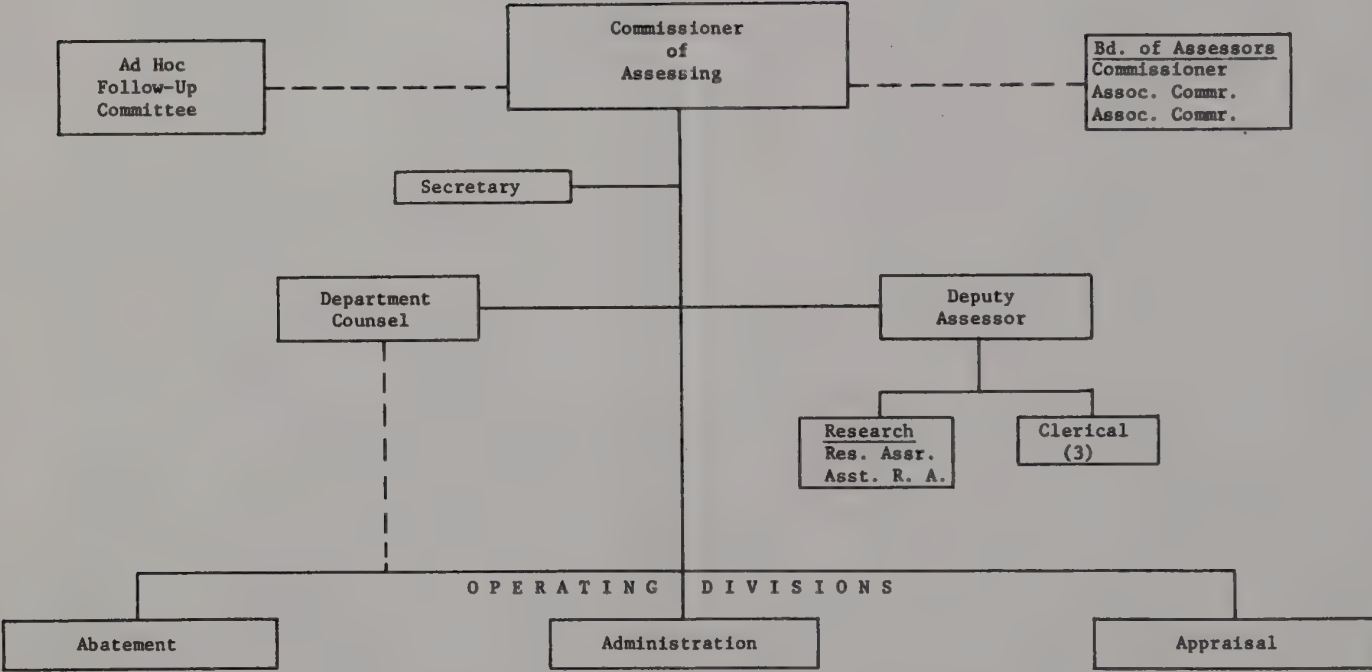
for reassignment to other projects.

Assignment of the Deputy Assessor to the Office of the Commissioner, coupled with adequate staffing, will facilitate the preparation of budgets and departmental reports, and will improve coordination with other departments as well as liaison with such agencies as Civil Service and employee unions. With access to research personnel the Deputy Assessor would also be able, routinely, to produce the various kinds of studies which are required to improve an operating department's methods and procedures or to maintain them at acceptable production and performance levels. The Deputy Assessor, under this plan, also will be able to develop organizational and operational manuals, conduct indoctrination and training courses for departmental personnel, and keep abreast of new developments in the field of assessing.

These changes, together with others that are proposed, will free the Commissioner of Assessing to devote more time to the all-important tasks of setting departmental policies and standards, and enable him to more effectively direct the operating units of his department.

It should be noted that as the City of Boston develops and perfects the planning, programming, budgeting system (PPBS) upon which it already has embarked, all departments, including Assessing, will have to devise meaningful and valid techniques for measuring program production and personnel performance in order to justify functions in terms of costs. This is yet another task for the staff of the Commissioner's office which will have to be conducted with the cooperation of the operating divisions; and it is another reason why the establishment of a high-level staff office is of vital importance to the department.

PROPOSED ORGANIZATION - DEPARTMENT OF ASSESSING
OFFICE OF THE COMMISSIONER



Recommendations:

The Abatement Division and Board of Review

The Board of Review as presently functioning, consists of a chairman selected from the appraisal staff, a second member from the research staff, and a third lay member. This basic organization should be retained, with the exception (previously noted) that the Mayor be authorized to select the second member of the board from the department as a whole, rather than from the research staff, which is likely to remain small.¹¹⁴

Ideally, the citizen-member of the board should have a background in real estate or a related field, and should have no other connection with the municipal government. Since the lay member of the board now is compensated on a salary basis for part-time work, we also suggest that consideration be given to a compensation schedule based on per diem.

The abatement process generally is thought of as being quasi-judicial in nature and it may be correct to state that this process has certain judicial characteristics.¹¹⁵ But analysis of abatement procedures as practiced in Boston reveals that this process, dependent as it is upon the establishment of final property values, is more administrative than judicial in character.

In this respect, there are several different kinds of abatements: personal abatements for the elderly and veterans, etc.; abatements for exempt property which has been assessed incorrectly as being taxable; abatements of motor vehicle taxes when a vehicle is disposed of; and the

114--See fold-out Chart VIII, page 205.

115--Op. cit., Home Rule Commission Report, 162: "The abatement process is essentially judicial in nature; thus the power to decide abatements more appropriately lies with the Board of Review as a quasi-judicial Body."

abatements of taxable properties due to over-valuations. Essentially, it is only those abatements which are made on over-valuations which ought to take on judicial characteristics. The others are governed by law and the process of determining eligibility is primarily an administrative determination of fact. Even applications for abatements on over-valuations must go through an administrative fact-finding phase before adjudication and many are settled during this administrative process.

It is inevitable that abatements always will be a part of any assessment system, and since they are a well-established (but not necessarily good) practice in the Commonwealth of Massachusetts and likely to remain so, we believe that the chairman of the Board of Review should also be made responsible for management of the proposed administrative Abatement Division, and that he be given the personnel required to function effectively.

Accordingly, we suggest that a small staff be assigned to the Abatement Division. Although there is at present an executive secretary to the Board of Assessors, we have noted previously that the board does not function as such and therefore its executive secretary already performs a number of duties in connection with the processing of abatements. We recommend, therefore, that this position be transferred to the Abatement Division and that the executive secretary be given the additional responsibility for a clerical staff of three full-time, and three part-time personnel.

The Social Services Section of the Assessing Department presently is operating rather independently and directly under the Commissioner, with somewhat loose ties to the Senior Administrative Assistant. However, this section is almost completely absorbed at this time with determining and

processing the so-called "clause abatements" concerning veterans, the elderly, etc. The supervisor has stated, "I am responsible for the handling and decision-making of over 16,000 applications for abatements on real estate under Chapter 59, Section 5 of General Laws, Clauses 17, 18, 20, 22A, 22B, 37, 41, 42, and 43." ¹¹⁶ Therefore, it is suggested that the Social Services Section more appropriately belongs within the Abatement Division, and that those clerical employees currently under the Social Services Supervisor be placed under the direction of the executive secretary as part of this reorganization. We recognize that for the present, at least, the bulk of work handled by these clerical employees will continue to be in the area of processing personal exemptions for abatements in the social services realm. But as better methods and procedures are developed, we believe it is likely that these employees will have more time for other assignments in the field of abatements.

Perhaps the most critical aspect of the abatement process, however, is that phase dealing with overvaluations. Currently, the Board of Review is without any direct assistance in determining the validity of abatement applications or original valuations. The Chairman often must work with incomplete data; and in the review and interpretation of facts must also rely on the same assessors, supervisors, and district directors who made the assessments originally. Frequently, this involves calling these personnel in from the field, thus removing them from their primary jobs. When this occurs during peak work loads, or when personnel are under deadlines to complete their assessments for the year, performance and production suffer.

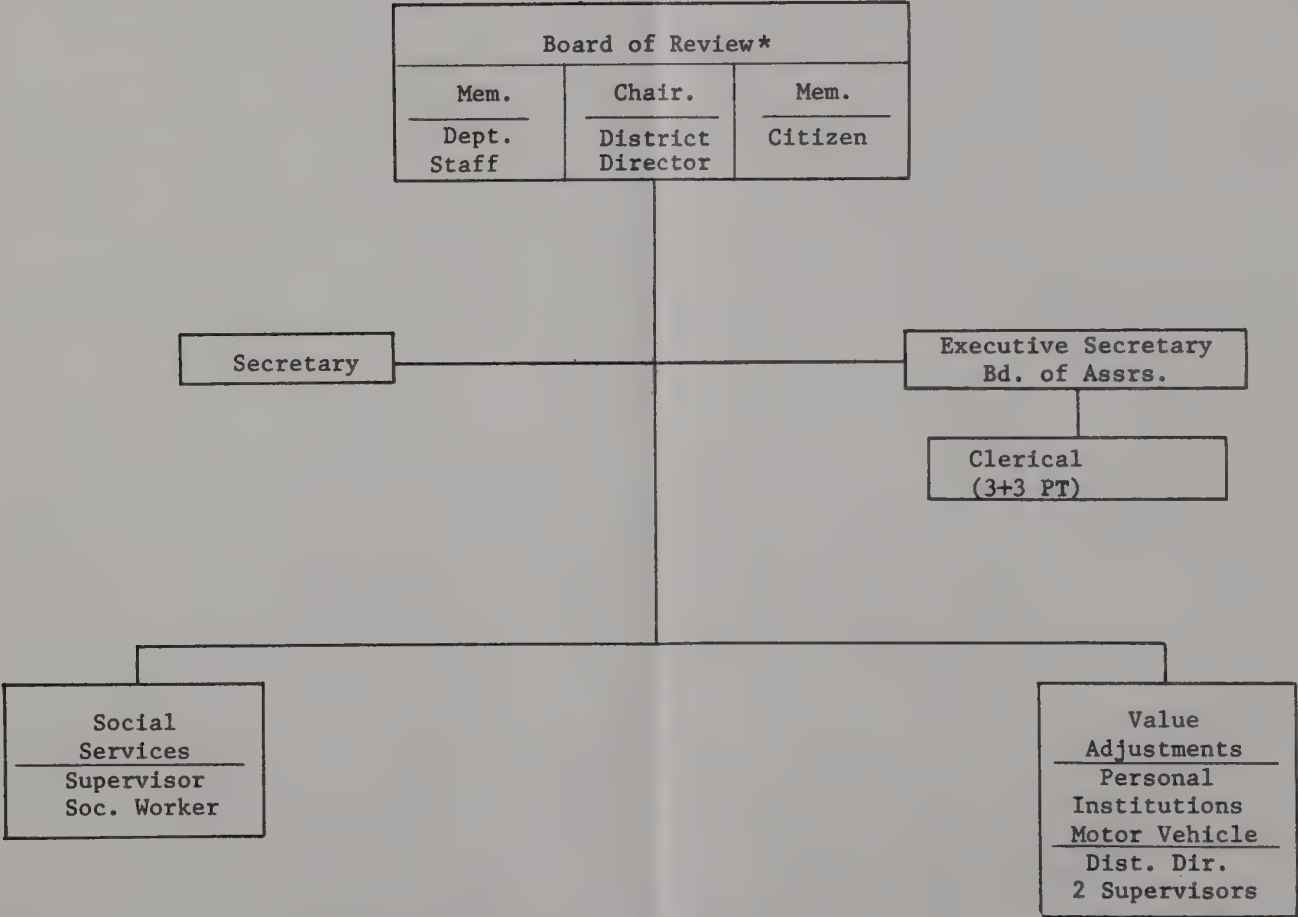
116--Op. cit., G.L.: c59, s5.

It is suggested, therefore, that a small staff, consisting of a District Director and two Supervisors, be assigned initially to the Abatement Division to screen and review all applications for abatements.

This Value Adjustment Section would work under the direction of the Chairman of the Board of Review. The board, thereby, would be provided with a better balanced staff and with the capacity for independent review, which in turn would relieve the appraisal staff of these tasks.

In addition, the Value Adjustment Section would review applications for abatements from organizations and institutions claiming exemptions. With the increase in state and federally financed and regulated housing and redevelopment projects this is becoming increasingly important.

PROPOSED ORGANIZATION - DEPT. OF ASSESSING
ABATEMENT DIVISION



*Board of Review Chairman, Full-Time
Members Serve Part-Time

Recommendations:

The Administrative Division

Administrative Services has grown rather haphazardly over the years to a point where a majority of Assessing Department personnel are concentrated in this unit, including the entire clerical staff with some minor exceptions.

Obviously, there are advantages in this kind of clerical pooling. Chief among these is the flexibility gained for making assignments to cover various peak periods in the annual work load. But this concept can be carried too far, to the detriment of routine but essential clerical and secretarial work.

Furthermore, it should be noted that the head of the administrative services unit, the Senior Administrative Assistant, reportedly exercises direct supervision over some 17 to 19 individuals. Such a span of control must be regarded as excessive by any standard.

In our judgment, therefore, some decentralization and specialization of the clerical staff is necessary. Accordingly, it is proposed that administrative services be established as a formal division in the department, and that this Administrative Division be headed by an Associate Commissioner.¹¹⁷

The Senior Administrative Assistant would serve as the division chief's aide and would be placed in charge of a small clerical staff to be utilized as required. In addition, the maintenance man who for the most part currently is handling inventory control in the Statistical Machine Operations

Unit, should be assigned to the Senior Administrative Assistant to perform similar services for the department as a whole.

The Administrative Division itself would be composed of three sections:

- (1) Information Services (now Statistical Machine Operations)
- (2) Office Services
- (3) Engineering Services.

The Office Services Section might be composed of the Reassessment Supervisor and approximately two clerks. (If this assignment is made, reclassification of this position will be required. But perhaps reclassification should be sought in any event, since the Reassessment Supervisor presently is spending 60 percent of her time on personnel, payroll, and budgetary matters.) Office Services would be responsible for processing payrolls, requisitions for materials and supplies, routine personnel actions, and other internal administrative tasks of a similar nature.

It is proposed that Engineering Services be established as another section of the Administrative Division. As presently organized, Engineering operates as a small unit with three permanent employees working directly under the Commissioner of Assessing. In addition, the Boston Redevelopment Authority has provided this unit with some drafting assistance during the past year. But in our opinion the unit is definitely understaffed. In this respect, although it is our intention generally to limit any of these proposed organizational changes to those which can be accomplished using currently authorized personnel (and using them more effectively in some instances) we believe that a minimum of one or two additional engineering aides will be needed for this section. We also propose assignment of a clerk to this section in order to allow the

professional staff to concentrate more effectively on their primary tasks of mapping.

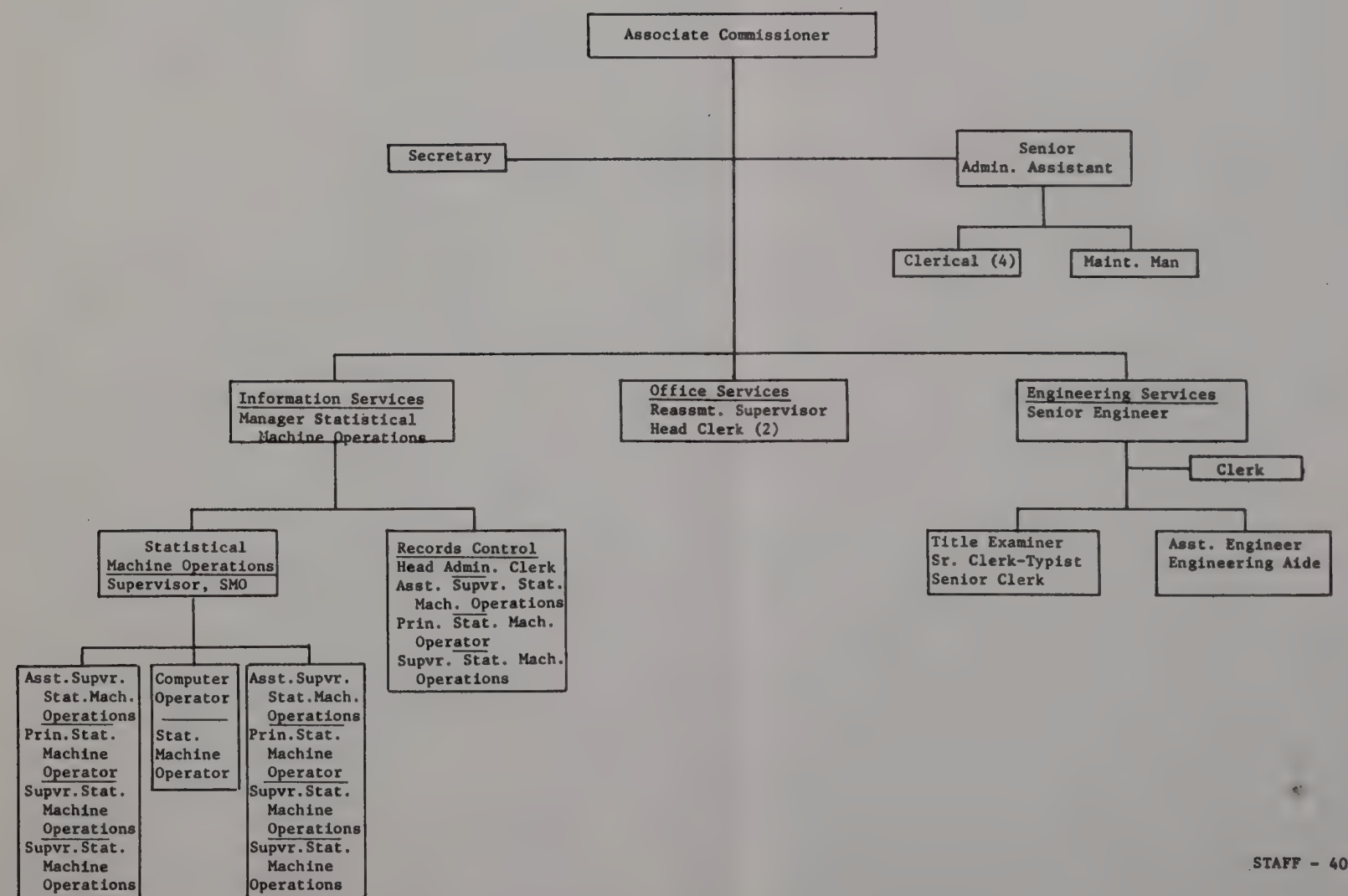
In terms of mapping, considerable input comes from the Title Examination Unit working at the Suffolk County Registry of Deeds. It is proposed, therefore, that this unit be made a part of the Engineering Services Section.

Information Services, which we propose as the third section of the Administrative Division, currently is known as Statistical Machine Operations, and its realignment under this plan would require only relatively minor adjustments.

There is a very close and important relationship between the permanent (or hard copy) records of the Assessing Department and those which are processed and produced by the Statistical Machine Operations Unit. As the city and the department progress toward a more sophisticated data processing system, this relationship will become increasingly closer and more important. Thus it is suggested that the records control (input as well as output) and maintenance of all primary assessing information files be placed under the Information Services Section.

Statistical Machine Operations would continue to function as at present with a gradual phasing into the city's central computer system. The head of this section should also be charged with responsibility for establishing a close working relationship with the central computer system in order to make the unit's transition into that system as smooth as possible.

PROPOSED ORGANIZATION - DEPARTMENT OF ASSESSING

ADMINISTRATIVE DIVISION

Recommendations:

The Appraisal Division

The third, and in many respects the key division, proposed for the Assessing Department is the Appraisal Division.¹¹⁸

As long ago as the 1948 Reeves Report, various studies and reorganizational plans have called for a greater centralization of the appraisal function as well as establishment of separate Real and Personal Property Sections. The Reeves plan called for three Deputy Assessors, presumably heading: (1) a Research and Statistics Unit, (2) a Personalty Assessing Unit, and (3) a Realty Assessing Unit.¹¹⁹ The 1954 reorganization plan made no specific mention of divisions however, and the 1958 reorganization mentioned only a Statistical Research Division,¹²⁰ while the 1961 reorganization called for a Real Estate Appraisal Division in addition to the Statistical Research Division.¹²¹

Although 23 years have elapsed since the Reeves report, and 10 years have passed since the last ordinance for reorganization, in practice the Assessing Department has not been organized along the lines recommended. Research has never been adequately staffed to reflect its presumed divisional status. The appraisal activities are divided into seven geographical districts, in each of which Directors report directly to the Commissioner of Assessing. Each district is relatively autonomous and responsible for both real and personal property assessments as well as a considerable portion of the abating process. Furthermore, since there is no single head of this

118--See fold-out Chart X, page 215.

119--Op. cit., Reeves Report, 29-45.

120--Op. cit., Revised Ordinances of 1961, c5, 25-26.'

121--See Appendix III for the 1961 ordinance in its entirety.

informally and loosely organized "division" other than the Commissioner himself, it would not be inaccurate to state that the assessing function as currently constituted, is split among seven ill-controlled "divisions."

If any kind of uniformity in appraisal practices and procedures is to be achieved, it is absolutely essential that a clearly defined Appraisal Division be established, and we propose that such a division be placed under an Associate Commissioner who would report directly to the Commissioner. No other member of the Appraisal Division would be authorized to report directly to the Commissioner with the exception of the individual selected from the division to serve as Chairman of the Board of Review and head of the Abatement Division.

The District Directors are the most qualified personnel available for assignment to a variety of general and special appraisal projects. Rather than dissipate this talent by assigning the District Directors to specific geographical areas, it is our feeling that their expertise can best be utilized by selecting some of them to operate at large or citywide in all fields of appraisal, while others would be selected to specialize in particular functions.

It has already been recommended that the Deputy Assessor be re-assigned to serve as Executive Secretary to the Commissioner of Assessing, and that one District Director and two Supervisors of Assessors be assigned to the Abatement Division where one District Director already is serving as Chairman of the Board of Review. This leaves five District Directors available for assignment within the Appraisal Division.

It is proposed that one District Director be assigned to serve as Administrative Assistant to the Associate Commissioner in charge of the division. He would assist the Associate Commissioner in the general administration of divisional affairs and would be responsible for directing a clerical staff of some nine people. This clerical staff would be transferred to the Appraisal Division from the present Administrative Services Unit where most of the personnel involved are now serving as "ward clerks" to the Assessors.

It should be noted that in the 1961 reorganization proposal, four districts were suggested with each having its own clerical staff.¹²² Thus, to some extent, our proposal will return to this concept.

As has been recommended in the past, either explicitly or implicitly, we recommend that the Appraisal Division be organized into two operating sections: (1) for real property, and (2) for personal property. Each section would be headed by a District Director.

The Personal Property Section would include the Personal Property Tax Supervisor and two Assistant Assessors, but before describing this section further it is appropriate at this point to discuss the Motor Vehicle Excise Tax Unit, which we have found difficult to place logically in the department. Responsibility for the automobile tax is shared by the city and state, an arrangement which has caused considerable problems at the municipal level. The city's Motor Vehicle Excise Tax Unit is engaged primarily in checking the material forwarded by the state to determine which organizations and individuals are entitled to exemptions and abatements.

Ideally, the Commonwealth should require that this tax be paid prior to registration of a motor vehicle as is done in a number of the other New England states. In the meantime, the tax is essentially a levy on personal property and for this reason it is suggested that the Motor Vehicle Excise Tax Unit be assigned to the Personal Property Section in the Appraisal Division. Furthermore, since it is required by ordinance that one of the Associate Commissioners be responsible for this function, the section would have to be placed either in the Administrative or Appraisal Divisions under our proposed organizational plan.

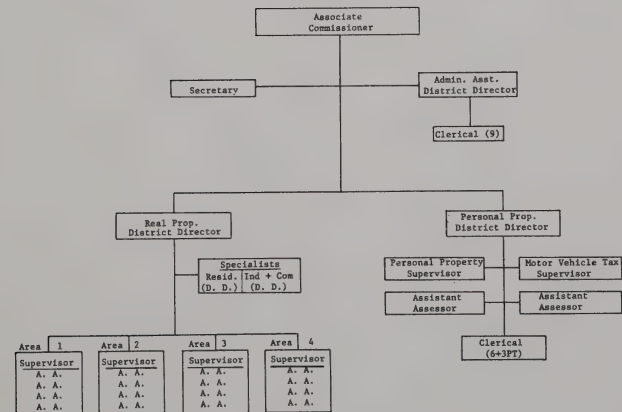
The clerical staff assigned to the Personal Property Section is that which is now working on motor vehicle abatements. With the current deplorable condition of the records received from the Commonwealth, it will be necessary for the clerical staff to continue to process motor vehicle excise taxing. However, as the state's files are cleaned up and improved, it may be possible for this staff to undertake work in other areas of personal property appraisal.

The Realty Appraisal Section as we propose it, would consist of three District Directors, four Supervisors of Assessors, and 20 Assistant Assessors. It is further proposed that one District Director be placed in charge of the section and that two be assigned as staff specialists, one to concentrate on residential properties, and the other on commercial and industrial properties. Directly under the District Director in charge of the Real Property Appraisal Section would be four area teams, each consisting of a Supervisor and four Assistant Assessors. (Note that this is the same number contemplated in the 1961 reorganizational proposal, although the makeup of the teams is different.)

The City of Boston has had a long tradition of assessing by geographical area, and is still organized along ward lines even though these have ceased to have any real meaning. For this reason alone it may be best to continue to maintain some geographical identity for the area teams. However, the Administration should retain a degree of flexibility by being able to assign any number of the appraisal teams to any section of the city where there is an indicated need for a concentrated effort.

This reorganizational plan for the Real Property Appraisal Section also contemplates an increase in the responsibilities of the Supervisors of Assessors. Presently, these employees are operating much as the Assistant Assessors and exercise relatively little supervision. Under our proposal, this role would be reversed and the Supervisors would be responsible for overseeing the day-to-day work of the Assistant Assessors.

PROPOSED ORGANIZATION - DEPARTMENT OF ASSESSING

APPRAISAL DIVISION

STAFF - 46 plus 3 PT

Recommendations:

Personnel Factors in the Reorganization

The recommended organizational structure which we have described, establishes a framework whereby personnel can most effectively be assigned and used to accomplish the production goals and policy objectives of the Assessing Department.

Although an exhaustive study of personnel is beyond the scope of this survey, we have undertaken a review of the duties assigned to the employees of the Assessing Department as compared with civil service classification titles and job descriptions in order to evaluate the accuracy and adequacy of the present personnel classification system.

A Position Classification Questionnaire (PCQ) was used in obtaining a comprehensive record of information covered by the review. Each PCQ, when completed, contained identification data on the position, its organizational placement, and specific information pertaining to the various duties, and other requirements needed for determining the position's level of responsibility. The incumbent's immediate superior was asked to review the questionnaire, add his comments if any, and make specific recommendations on minimum qualifications needed for proper performance on the job. The response was exceptional with all but a few absent employees completing the PCQ. It should be noted, however, that whereas the questionnaire sought to determine what each employee was in fact doing, a number of people simply stated what they were supposed to be doing, and the two are not necessarily the same.

Our personnel expert carefully reviewed each completed PCQ and developed working organization charts from the information contained in

these. (The PCQ's also were used to construct Chart V on page 193 which depicts the existing departmental organization.)

Duties assigned to positions, as well as the desirable qualifications for filling key vacancies were reviewed with unit supervisors. Desk audits and observations were made as required to gain an adequate understanding of positions allocated to various classes, and/or to investigate new, changed, or unusual assignments. Assigned duties and minimum qualification requirements for each position were compared in general terms to the existing civil service specifications for the class.

Many of the employees of the Department of Assessing, particularly in clerical occupations, do not have assigned duties which fall reasonably within the scope of responsibilities delineated by the approved civil service specifications. Assigned duties in many instances are better described by the civil service specifications for a class one or two levels below the employee's actual class title. For example, most ward clerks are assigned to relatively the same duties and responsibilities as those outlined for the classification of Senior Clerk, but the ward Clerks are classified in the higher grade of Principal Clerk. Similarly, an employee classified as Supervisor of Assistant Assessors does not have supervisory responsibilities, but performs duties nearly equal to those ascribed to the class of Assistant Assessor.

These discrepancies in classification were attributed to the common practice, right or wrong, of promoting employees (who also qualify through civil service examinations) without regard to the assigned duties of their positions. In some cases, classifications and pay levels have been upgraded

without significant changes in an employee's duties or responsibilities as a means to reward personnel for meritorious service.

Numerous examples were brought to our attention, both in the information contained in the PCQ's and during discussions with supervisory personnel, of cases where authority for supervision is not clearly defined. Of a reported 75 persons in Administrative Services, some 17 to 19 are under direct supervision of the head of the unit, including ward clerks whose work relates directly to the assessors. But the assessors have no control over the clerks assigned to clerical duties in their areas of responsibility.

In the Data Processing Unit, all employees report to two supervisors, who in turn report directly to the head of the Administrative Service Unit.

In some instances, there are direct conflicts over authority. Employees have reported themselves as being under the supervision of one person, while another claims that authority and responsibility. For example, the head of the Motor Vehicle Excise Tax Section claims supervision by the Commissioner, but the Senior Administrative Assistant insists that she is in charge of the section. District Directors, on the other hand, claim that they report directly to the Commissioner, but the Associate Commissioners feel that they have a responsibility for the supervision of the District Directors.

It is the general feeling among management personnel in the Assessing Department that the quality of workers the city is able to obtain through the civil service lists is below what should be available

in the market in terms of salaries offered. Reasons cited for this include the long delay between the time a person files application for examination and the actual offer of employment; the absolute preference given to veterans over nonveterans; and the relatively low status potential employees attach to jobs in local government, a factor by no means unique to Boston.

Supervisory morale also is affected by disciplinary problems. Rarely, if ever, is an employee dismissed from a position in the city's civil service. Even though provisions are made in the law for the dismissal of unsatisfactory employees during their probationary periods, and for discharge of other employees for cause, supervisory and management personnel consider the dismissed procedures as being unduly cumbersome and restrictive. In addition, the appellate body or State Civil Service Commission, is considered to be so protective of the employee as to make meaningful disciplinary action or dismissal nearly impossible to accomplish.

It is significant in this respect that we could find no evidence of a code of conduct or ethics within the Assessing Department against which to measure behavior, nor of any established standards applicable to unit or individual performance. What was found was a deep-seated feeling of frustration among supervisory employees attributable to real or fancied inability to dismiss or otherwise take disciplinary action against civil service personnel without almost certain reversal on appeal. Consequently, employees who cannot or will not perform satisfactorily are either shunted to the side, assigned to nonproductive or make-work activities, or

permitted to remain in their positions while others carry their work load. Obviously, such practices inevitably lead to a deterioration in the morale of conscientious employees.

In terms of classification problems generally, it should be pointed out that many of these which are present in the Assessing Department are common throughout the city civil service system. Thus, any attempt to resolve clerical classification difficulties without reference to similar positions and problems in the entire municipal work force would be futile. However, classification problems relating to classes unique within the Assessing Department--such as the nearly complete overlap between Assistant Assessor and Supervisor of Assistant Assessors--can be resolved directly through normal personnel procedures and channels. And this particular problem begs resolution whether the proposed reorganization is adopted or not. As organizational changes are adopted the most logical solution would appear to be to make the Supervisor of Assistant Assessors a supervisor in fact. In any event, this position should be strengthened as required, by reclassification at a somewhat higher grade.

The resolution of classification problems in the clerical, machine operations, and engineering areas can be made finally only after a thorough review of similar classes in other departments. Since the last overall review of the City Classification Plan was made in 1962, and since it is regarded as advisable to update classification plans at about five-year intervals, it is recommended that the Finance Commission, Administrative Services, or the Assessing Department, take steps immediately to secure authorization for such a study.

Obviously, proper definition and assignment of job responsibilities are essential to efficient and effective utilization of personnel, and ultimately, to the operation of the department itself. Our study of personnel indicates, however, that too many improperly defined positions exist within the present organization. Incumbents in these positions must be appraised of their responsibilities; to whom they report and who reports to them; what standards of quality and quantity of work they are expected to maintain; and what performance standards they should expect from those who are subordinate to them.

Periodic follow-up must also be scheduled to assure that set goals are met. In this manner, objectives can be measured against performance and appropriate action taken. This may be in the form of commendations or awards for superior performance; or warnings, reprimands, suspensions, and dismissal for inferior work, or for negligence or incompetence.

Another essential to effective personnel administration is the establishment and utilization of a disciplinary procedure. In a study of personnel management in the Boston municipal government completed by The Jacobs Company in 1963, initial procedures were outlined for establishment of a system of disciplinary actions. This study, prepared for the Boston Municipal Research Bureau, suggested basic steps to be taken for issuing verbal and written reprimands to erring employees.¹²³ All of

123--See Appendix VII, "Guidelines for Establishing Standards of Conduct and Standardizing Disciplinary Actions," from "Report on the Study of Personnel Management in the Boston City Government," J. L. Jacobs & Co., 1963. This appendix also includes an excerpt from Personnel Rules and Regulations developed by The Jacobs Company in 1968 for the Consolidated Government of the City of Jacksonville, Florida.

these reprimands were to be accumulated in an employee's personnel file to provide an accurate record to be used in substantiating any serious disciplinary action that might follow. This is necessary since, under the unwieldy procedures outlined by the state for disciplining personnel, a conscientiously maintained record of an employee's performance, including deviations from acceptable standards, is essential to pave the way for any serious disciplinary action.

It is recommended, therefore, that formal procedures for disciplinary action be developed and adopted for use within the Assessing Department.

It should be stressed, however, that internal or departmental administrative reforms in terms of personnel actions, are not in themselves sufficient. Ultimately, Boston can hope for an effective, modern system of personnel administration only through the granting of home rule powers by the Commonwealth. A statewide civil service system cannot possibly be as effective as a system designed by a municipality to meet its own particular needs, and managed by local officials fully cognizant of local problems. As a major city with long traditions in self-government, Boston has the experience, the expertise, and the resources necessary to develop and support its own personnel system, as well as a sufficient number of public employees to justify local control management of that system.

This matter is of such critical and far-reaching importance that continuing efforts must be exerted by local officials to obtain legislation necessary to enable the City of Boston to establish its own civil service and personnel administration system.

Recommendations:Space Requirements and Utilization

Among recommendations of the 1948 Reeves Report was the stipulation that adequate space be provided for the Assessing Department. This has been effectuated by the move into Boston's new Government Center. But shortcomings in space utilization can be detected already and it is apparent that more effective planning and control is necessary to resolve certain existing problems as well as to avert the consequences of disquieting trends in space management and use which are now discernable.

The Engineering Section, for example, already is somewhat cramped and requires expansion. In addition, the floor plan in this section is such that there is no real security in the map and file room, and no specific area is set aside for use by the public. As a result, citizens seeking mapping information tend to wander about in the area, and have been known to walk into the map and file room without the knowledge of the staff, or to wander into the production room and interrupt the technicians working there. Assignment of a clerk to this section, as recommended elsewhere in this report, will serve to alleviate these problems somewhat, but the ultimate answer is a new floor plan or re-allocation and better utilization of space.

On the other hand, additional space may be required for the Statistical Machine Operations unit, which is now located two floors beneath the main assessing office. The space so occupied is adjacent to the city's central computer room, and to the extent that this eventually will facilitate the kind of cooperation that will be needed between these two

activities in the future, this is good. But conversely, it would appear to be logical to place at least some of the systems personnel in the main office. In this respect, as data processing procedures are refined and developed, consideration should be given to the need for locating some input and inquiry machinery in the locations where the data is produced and where the processed information is utilized. Thus, it is apparent that some expansion space may be needed in this area, and some appears to be available. For example, the information and reception activity is located well within the main office while a considerable amount of space just inside the entrance, where the information and reception desk should be located, is simply sitting vacant.

Expansion space should be considered as a factor in terms of this reorganizational proposal as well. Adoption of this plan will concentrate several additional employees in the main office and additional space will be required to accommodate them. Whether this can be provided within the available space assigned to the department is a moot question. But, as has been noted, there does appear to be some space which can be utilized immediately outside the main office entrance, and there is considerable wasted area throughout the department. Unfortunately, however, counters and some walls are fixed in concrete and are not designed for flexibility, so the possibilities for better space utilization through renovation are minimized--a concession to the beauty and esthetic values contained in the architecture of Boston's monumental new City Hall.

While these problems are by no means serious at present, they can and will have a bearing on any reorganization of the department and most certainly will grow in importance in the future. We recommend, therefore, that a detailed in-house space utilization study be conducted in conjunction with the proposed restructuring of the department.¹²⁴ This kind of coordinated approach is necessitated by the fact that space requirements and allocations will vary according to the organization adopted and to the work flow and procedures that follow.

It is essential, also, that the space utilization study be concerned with future needs and relate these to technological advancements that are desirable in themselves to expedite and improve work flow, and which offer solutions to space problems as well. For example, file cabinets for keeping hard-copy files over extended periods of time consume much badly needed space. The space utilization study, therefore, should concern itself with the possible application of microfilming, micromation, and data processing to reduce areas reserved for bulk storage as well as to improve the department's operations.

For the present, however, existing space appears to be adequate for current operations. But in our opinion, this will not remain so for very much longer.

124--In our opinion, this probably could be conducted by personnel in the department, with the assistance of the Public Facilities Department and the Boston Redevelopment Authority.

Summary and RecommendationsFor Implementation

In summary, the proposed reorganization of the Boston Assessing Department will provide a manageable span of control for administrators at every level and will establish clear-cut lines of responsibility and authority. It also will place the two Associate Commissioners in the administrative mainstream as full division chiefs, and relieve them of any responsibility for abating, since this function will be concentrated in the Abatement Division.

In the course of our survey we have found that the assessing function has been the object of a number of studies over the years, all of which have made various recommendations for improvements. However, there has been a singular lack of follow-up in the wake of these studies. In some instances, valid recommendations have been ignored; in others, well-intentioned efforts to effect desirable changes have bogged down. In terms of past experience alone, therefore, it is obvious that implementation of reorganizational changes cannot be left to chance, particularly within the context of on-going operations. When reorganization becomes solely an internal administrative matter, the schedules and demands of day-to-day operations and work goals tend to complicate and inhibit the processes of implementation which, at best, are difficult and complex in themselves.

For these reasons it is strongly recommended that the Mayor appoint an ad hoc Follow-Up Committee to work with the Commissioner of Assessing in implementing the recommendations contained in this report.

It is suggested that this committee might be composed of a member from the Department of Administrative Services, a member from the City Council, a member from the Boston Finance Commission, and two lay members.

At the departmental level, it is suggested that the Deputy Assessor, who would serve as executive assistant to the Commissioner under the proposed reorganization, be assigned to work with the Follow-Up Committee, and that he be given the specific assignment as official liaison to the committee and the authority to implement the changes which are ultimately approved and adopted.

There has been considerable debate within the department and elsewhere about the question of whether the division chiefs should be political appointees or civil service employees. (It may be noted that the Chairman of the Board of Review is both an appointed and a career official in that he comes from the ranks of employees in the Appraisal Division but serves as Chairman at the pleasure of the Mayor.) Without a discussion of the arguments, however, we believe the question has been resolved in this reorganization proposal by assigning a senior career civil service employee to be the strong right arm of each appointed official. In this manner, a degree of expertise and continuity will be maintained while simultaneously preserving what we feel is the necessity of allowing the Mayor to appoint and remove key department and division heads as he finds necessary.

Ideally, an organization should be structured in terms of goals to be achieved and tasks to be performed, and personalities should not enter into the restructuring process. In practice, however, it is rare indeed when this can be done. Therefore, organizational compromises have to be

made which take into account the abilities and personalities of the people who constitute the organization. Without identifying the individuals involved, we would be remiss if we did not point out that there are a number of personality conflicts in the Assessing Department which hamper its effective operations. Where the administrative structure and controls are loose and individual responsibility and authority are vague as they have been in the department, such clashes can disrupt the entire organization.

Our proposals are designed to minimize such personality conflicts. But there should be no illusion that a new organizational structure will, ipso facto, eliminate such problems. It can only assist in controlling them; and in this respect it should be stressed that an organizational structure is no more than a tool available to the administration for getting the job done.

It will still take the patient, persistent, and cooperative effort and dedication of key personnel to make even the best-structured organization function effectively, for in the final analysis the people are always more important than the structure, since their attitudes and competence will determine its success or failure. But if capable people are going to be expected to do a first rate job of running the Assessing Department, they need to be provided with the proper tools. And the fact of the matter is that some organizational structures are better tools than others.

The 1961 ordinance, happily, is reasonably flexible; and we believe that with few modifications it can accommodate the basic framework of

of the improved organizational structure we recommend for the Assessing Department. However, the reorganization we propose undoubtedly will necessitate some changes in personnel classifications, since a number of individuals will be assigned to duties which differ considerably from those they now hold and for which their job specifications were written. Let it be emphasized, in this respect, that the personnel survey conducted in conjunction with this report revealed that a number of Assessing Department personnel already are working out of classification.

While our proposed reorganization seeks to utilize the present and authorized staff to best advantage, it will not be an easy task to implement recommended changes. Some of these can and should be made immediately, but others will necessitate a gradual implementation over a period of time. Some delay can be anticipated from the natural and understandable resistance to change which is inevitable in any major reorganization. Time will also be needed for educating employees as to the need and reasons for change in order to improve departmental operations. And, since restructuring will lead to operational changes, time must be allowed for introducing these changes without disrupting current operations.

The reorganization recommended is designed so that, for the most part, it can be put into effect solely by administrative action. Insofar as possible, this reorganization follows the 1961 ordinance which authorizes the Board of Assessors to establish viable operating divisions within the department. Technically, it would appear that an ordinance revision may be required for the reclassification of Research as a staff, rather than as a line activity; and for the broadening of the Mayor's

authority to allow him to select the departmental member of the Board of Review from the department as a whole. However, it should be borne in mind that Research is not now functioning as contemplated in the 1961 ordinance; and in any event this activity needs to be brought into a closer and more harmonious working relationship with the Commissioner. Furthermore, if deemed advisable, the Research Assessor can be retained as a member of the Board of Review under our plan. Indeed, the change we propose would not necessarily mean that another staff member would be assigned to the Board but only that the Mayor would be given the option of making a change if he chooses to exercise that option.

The adoption and implementation of our recommendations would in time necessitate a study of position classifications and job descriptions in some depth. This should be done in conjunction with and as the new tasks of various employees are more clearly defined. As seen in the comments on personnel elsewhere in this report, such a study is needed in any event.

We recommend that an immediate start be made to establish the three divisions suggested and that as an initial step in this direction, the Office of the Commissioner be formally established and staffed as soon as possible.

Under this plan for restructuring the Assessing Department we believe that critical functional relationships are organized effectively and harmoniously. The structure we recommend is well balanced.

Good organization does not just happen. And while organizational planning is an often neglected process, it is rarely neglected without serious adverse consequences. Organizational changes in and of themselves will not improve departmental operations. They do, however, provide the tools and vehicle for improvement.

The organization proposed here will not materialize by itself; only a sustained and determined effort on the part of the department's top administrators can assure ultimate success. Management itself must pave the way for these changes, and by example and leadership make them effective by patient and persistent concentration on the detail and follow-through which are the keys to successful implementation.

APPENDICES

APPENDIX I

GENERAL REVENUE FROM LOCAL SOURCES
IN THE NATION'S 43 LARGEST CITIES, 1968-1969
AS COMPARED WITH THE CITY OF BOSTON*

<u>Taxes</u>	(Thousands of Dollars)	
	<u>All Cities</u>	<u>Boston</u>
Property	\$3,971,021	\$197,808
Income	986,734	- 0 -
General Sales and Gross Receipts	796,106	- 0 -
Selective Sales and Gross Receipts	461,779	- 0 -
Motor Vehicle and Miscellaneous Licenses	273,294	3,047
Other	45,592	- 0 -
<hr/>		
TOTAL TAXES:	\$6,534,526	\$200,855
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Charges and Miscellaneous General Revenue	\$1,884,508	\$ 39,857
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TOTAL GENERAL REVENUE FROM LOCAL SOURCES:	<u>\$8,419,034</u>	<u>\$240,712</u>

*Based on 1960 population; source: Bureau of the
Census, City Government Finances, 1968-1969.

MAJOR SOURCES OF LOCAL NON-PROPERTY
TAXES IN THE NATION'S 43 LARGEST CITIES

City	Income	General sales	Selective Sales	
			Utility	Major Other
Atlanta	-	-	X	-
Baltimore	X	-	X	-
Birmingham	-	X	X	-
BOSTON	-	-	-	-
Buffalo	-	-	X	-
Chicago	-	X	X	-
Cincinnati	X	-	X	-
Cleveland	X	-	-	-
Columbus	X	-	-	-
Dallas	-	X	X	-
Denver	-	X	X	tobacco products
Detroit	X	-	-	-
Ft. Worth	-	X	X	-
Honolulu	-	-	X	motor fuel
Houston	-	X	X	-
Indianapolis	-	-	-	-
Kansas City	X	-	X	tobacco products
Long Beach	-	X	X	tobacco products
Los Angeles	-	X	X	alcoholic beverages
Louisville	X	-	-	-
Memphis	-	-	X	alcoholic beverages tobacco products
Milwaukee	-	-	-	-
Minneapolis	-	-	X	-
Newark	-	-	X	-
New Orleans	-	X	X	alcoholic beverages
New York	X	X	X	tobacco products
Norfolk	-	X	X	tobacco products
Oakland	-	X	X	tobacco products
Oklahoma City	-	X	X	-
Omaha	-	-	X	-
Philadelphia	X	-	-	-
Phoenix	-	X	X	-
Pittsburgh	X	-	-	-
Portland	-	-	X	-
Rochester	-	-	X	-
St. Louis	X	-	X	tobacco products
St. Paul	-	-	X	-
San Antonio	-	-	X	-
San Diego	-	X	X	-
San Francisco	-	X	X	-
Seattle	-	-	X	-
Toledo	X	-	-	-
Washington, D.C.	X	X	X	alcoholic beverages motor fuel tobacco products
<hr/>				
Number of Cities				
Utilizing Tax:	13	17	33	12

Source: Bureau of the Census, City Government Finances, 1968-1969.

APPENDIX II

INEQUALITY IN PROPERTY TAX ASSESSMENTS:
NEW CURES FOR AN OLD ILL

I. INTRODUCTION: THE LEGAL REQUIREMENT OF EQUALITY

"Tax Decision Stuns State," read a banner headline in a Boston newspaper recently.¹ In *Bettigole v. Assessors of Springfield*,² the Supreme Judicial Court of Massachusetts had struck down the entire property tax assessment roll of the city of Springfield. The city's practice of assessing different parcels of real property at different percentages of market value was illegal, the court held, under the state's constitutional requirement that all assessments of real property be "proportional"³ and under the statutory requirement that proportionality be achieved by assessing each parcel at its "fair cash" value.⁴ In reporting the decision another Boston newspaper sought reactions from city and town assessors throughout the state and questioned them on their own practices. The great majority of those responding said that they, like the Springfield assessors, disregarded the "fair cash" value requirement. A substantial number admitted to proportional inequality as well. "Some property is assessed at 100 percent and on residences the assessments could vary from 50 percent to 100 percent," said the chairman of the Everett Board of Assessors.⁵ "We place what values we think should be on each property, sometimes 100 percent and sometimes not," the West Springfield spokesman stated.⁶ The chairman of the Fitchburg Board of Assessors was more wary. "As to our present methods," he said, "I wouldn't care to give a percentage—that's what got the Springfield assessors in trouble."⁷

The Massachusetts situation is not unique. The decision in *Bettigole* and the reactions to it have merely brought to the surface in that state the longstanding⁸ and virtually nationwide practice by which officials charged with the administration of the property tax have disregarded the law. The Fitchburg assessor's comment also suggests—especially when coupled with the headline, "Assessors' Secrets Are Among Best Kept," appearing on the same page⁹—the practical difficulties besetting the

¹ Boston Herald, Nov. 21, 1961, p. 1 (late city ed.).

² 178 N.E.2d 10 (Mass. 1961).

³ MASS. CONST. pt. 2, ch. 1, § 1, art. IV.

⁴ MASS. GEN. LAWS ANN. ch. 59, § 38 (1958).

⁵ Boston Globe, Nov. 21, 1961, p. 15, col. 3 (morning ed.) (reprinted with permission).

⁶ *Id.*, col. 1.

⁷ *Ibid.*

⁸ See *id.*, cols. 2-3, statement of director of Bureau of Government Research at the University of Massachusetts: "In the history of tax assessment—beginning in colonial times—I don't think any assessment ever took 100 percent of fair market value."

⁹ *Id.*, cols. 1-2.

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taxpayer who attempts to convince a court or board of appeal that his assessment is unlawfully high. There are two principal grounds on which such a complaint may be based. The first is overvaluation: the taxpayer may argue that his property, considered alone, has been valued at more than it is actually worth in terms of the statutory standard of "full," "true," "market," "fair cash," or "ordinary" value. Although this argument is widely relied on in the many thousands of assessment protests filed annually throughout the country, it is undercut in many localities by the assessors' practice of valuing property at only a fraction of the full-value standard. The second ground is inequality: the taxpayer may argue that his property has been assessed at a higher percentage of its value than other property which the law requires to be assessed at an equal percentage. This argument, going directly to the issue of inequitable allocation of the tax burden, is legally the more significant; it can rely not only on state law, but also on the equal protection clause of the fourteenth amendment.

The extent to which the equal protection clause affects state property tax assessments has often been at issue before the United States Supreme Court. All states require that real property of the same class—residential, commercial, or railroad, for example—be assessed equally, that is, at full value or a uniform percentage thereof;¹⁰ most also prohibit assessors from classifying property and assessing different classes at different percentages.¹¹ The Supreme Court has held that such classification, so long as it is reasonable, does not violate the equal protection clause even though it contravenes the state's own law.¹² At the same time, however, the Court repeatedly has held that discrimination between parcels within the same class may indeed constitute a denial of equal protection. This requirement of intraclass equality will prevail in any conflict with a state's provision for full-value assessment. Thus, in the 1923 case of *Sioux City Bridge Co. v. Dakota County*,¹³ the Court held that a taxpayer whose property had been discriminatorily assessed at full value must be granted a reduction to the fraction at which other parcels had been assessed, even though a court's order to that effect would itself contravene the state statute.¹⁴ To run afoul of the equal protection clause, however, the discrimination must be more than incidental. In the 1931 case of *Cumberland Coal Co. v. Board of Revision*,¹⁵

¹⁰ *E.g.*, ARIZ. CONST. art. 9, § 1: "All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax . . ." CONN. GEN. STAT. § 12-64 (Supp. 1961): All property not specifically exempted is liable for taxation "at a uniform percentage of its present true and actual valuation, not exceeding one hundred per cent . . ."

¹¹ *E.g.*, TENN. CONST. art. 2, § 28: "No one species of property . . . shall be taxed higher than any other species of property of the same value . . ."

¹² *Nashville, C. & St. L. Ry. v. Browning*, 310 U.S. 362 (1940) (involving the Tennessee provision, note 11 *supra*).

¹³ 260 U.S. 441.

¹⁴ For recent examples of the judicial dilemma posed by a conflict between a state's uniformity (here, interclass) and full-value requirements, resolved in favor of the latter, see *E. Ingraham Co. v. Town & City of Bristol*, 144 Conn. 374, 132 A.2d 563 (1957); *E. Ingraham Co. v. Town & City of Bristol*, 146 Conn. 493, 151 A.2d 700 (1959).

¹⁵ 284 U.S. 23.

where unconstitutional discrimination was found in a procedure by which all coal in a township was assessed at the same per-ton figure regardless of differences in actual value, the Court emphasized that the discriminatory assessments "were made pursuant to a deliberately adopted system";¹⁶ the opinion distinguished cases in which admitted inequality, even though flagrant, was held permissible because it had resulted from mere errors in judgment in following a proper method.¹⁷

Most recently, in *Township of Hillsborough v. Cromwell*,¹⁸ the Court grounded federal jurisdiction of a complaint of unequal assessment on a finding that no effective remedy for such discrimination was provided by the courts of New Jersey, which in a long line of prior cases¹⁹ had refused to reduce discriminatory assessments below the state's full-value requirement, and had instead remitted the taxpayer to an action aimed at raising all other assessments to his own level. The Court declared that the taxpayer "may not complain if equality is achieved by increasing the same taxes of other members of the class to the level of his own. The constitutional requirement, however, is not satisfied if a State does not itself remove the discrimination, but imposes on him against whom the discrimination has been directed the burden of seeking an upward revision of the taxes of other members of the class."²⁰ As a result of these Supreme Court decisions, the state courts generally have recognized — albeit with startling exceptions²¹ — that the fourteenth amendment forbids intentionally unequal assessment as between properties of the same class and entitles a taxpayer who has proved such discrimination to a reduction to the level at which comparable parcels have been assessed.²²

Despite the state and federal requirements of equality, inequality has long been rife. Although within recent years several state courts have granted far-reaching relief, and legislatures have acted to improve the assessing process and ease the way of the aggrieved taxpayer who seeks a judicial remedy, in most states the situation has not improved. Questions have arisen, moreover, as to the extent of the taxpayer's right to be free from unequal assessment, and as to the relative desirability of the judicial and legislative solutions that have been attempted. In considering these problems this Note will focus mainly on the basic requirement of equality as embodied in the fourteenth amendment; it will deal only

¹⁶ *Id.* at 25.

¹⁷ *Sunday Lake Iron Co. v. Township of Wakefield*, 247 U.S. 350 (1918); *South-ern Ry. v. Watts*, 260 U.S. 519 (1923).

¹⁸ 326 U.S. 620 (1946).

¹⁹ *E.g.*, *Royal Mfg. Co. v. Board of Equalization*, 76 N.J.L. 402, 70 Atl. 478 (Super Ct. 1908), *aff'd*, 78 N.J.L. 337, 74 Atl. 525 (Ct. Err. & App. 1909). See also *Lasser, Assessment of Real Property in New Jersey: An Appraisal of the Baldwin Case*, 9 RUTGERS L. REV. 497 (1955).

²⁰ 326 U.S. at 623.

²¹ *E.g.*, *Rollman & Sons Co. v. Board of Revision*, 163 Ohio St. 363, 127 N.E.2d 1 (1955).

²² *E.g.*, *McCluskey v. Sparks*, 80 Ariz. 15, 291 P.2d 791 (1955); *Anderson v. Dunn*, 180 Kan. 811, 308 P.2d 154 (1957); *Baldwin Constr. Co. v. Essex County Bd. of Taxation*, 16 N.J. 329, 108 A.2d 598 (1954).

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indirectly with state provisions that prohibit discrimination even as between different classes of property.

II. EQUALITY IN PRACTICE

A. Inadequacy of the Assessing Process

The extent to which the legal requirement of equality is disregarded is best indicated by a 1957 finding of the United States Census Bureau. The Bureau studied 1,263 localities throughout the country and found that the degree of assessment equality accepted by most experts as a reasonable and obtainable goal had been achieved in only one-fifth of them.²³ This conclusion is amply supported by reported cases and other evidence of current assessment practices. In a recent South Dakota case the trial court found that property of the same class had been assessed at ratios ranging from 13.3 to 131 per cent of true value.²⁴ The Wichita, Kansas, Chamber of Commerce reports that in five bona fide sales of downtown office buildings within the past two years the ratios of assessed to market value were, respectively, 26, 41, 43, 46, and 65 per cent.²⁵ A Pennsylvania court recently exhorted a city to give "serious consideration to correcting an unfair situation which now exists in regard to assessments of real estate . . . and which apparently has existed for many years."²⁶ And the New Jersey Supreme Court was confronted last year with findings that assessment ratios within a given municipality for the year in question ranged from 4.13 to 86 per cent of market value on residential property, from 2.25 to 88 per cent on vacant lands, and from 5.13 to 79.88 per cent on other properties.²⁷

Violation of the equality requirement is closely intertwined with violation of state provisions requiring all property to be assessed at its full or market value.²⁸ These provisions were designed primarily to ensure

²³ BIRD, THE GENERAL PROPERTY TAX: FINDINGS OF THE 1957 CENSUS OF GOVERNMENTS 54-55 (Pub. Admin. Serv. 1960). Assessment uniformity is often measured by a "coefficient of dispersion," the result of dividing the average deviation from the median ratio by the median ratio. While some have suggested a lower figure, most experts see a coefficient of 20% as a reasonable maximum. *Id.* at 53-54.

²⁴ *Baken Park, Inc. v. County of Pennington*, 109 N.W.2d 898 (S.D. 1961).

²⁵ Letter From O. A. Garnett, Manager, Governmental Affairs Department, Wichita Chamber of Commerce, to the *Harvard Law Review*, Dec. 13, 1961. (This and all other letters cited in this Note were written to the *Harvard Law Review* and are on file at the offices of the Harvard Law Review Association, where they may be inspected.)

²⁶ *Appeal of Rick*, 402 Pa. 209, 210-11, 167 A.2d 261, 262 (1961).

²⁷ *In the Matter of Kents*, 34 N.J. 21, 166 A.2d 763 (1961).

²⁸ Assessment at "full," "true," "actual," "market," "fair," "cash" or "fair cash" value is required by the constitutions or statutes of 35 states — all except: Alabama (60%), ALA. CODE tit. 51, § 17 (1958); Arkansas (20%), ARK. STAT. ANN. § 84-476 (1960); Connecticut (local option), CONN. GEN. STAT. REV. § 12-64 (Supp. 1961); Indiana (33½%), IND. ANN. STAT. § 64-309 (1961); Iowa (60%), IOWA CODE ANN. § 441.21 (Supp. 1961); Montana (30%), MONT. REV. CODES ANN. § 84-302 (Supp. 1961); Nebraska (35%), NEB. REV. STAT. § 77-201 (1958); New Jersey (local option), N.J. STAT. ANN. § 54:4-2.25 (1960); North Carolina (local option), N.C. GEN. STAT. § 105-294 (Supp. 1961); North Dakota (50%), N.D. CENT. CODE § 57-02-28 (1960); Oklahoma (35%), OKLA. CONST. art. X, § 8; Oregon (25%), ORE. REV. STAT. § 308.232 (1961); South Dakota (60%), S.D. CODE § 57.0334 (Supp. 1960); Utah (30%), UTAH CODE ANN. § 59-5-1 (Supp. 1961); and Washington (50%), WASH. CONST. amend. XVII.

assessment equality;²⁹ it was thought that a clear standard of 100 per cent, to be applied in valuing every piece of property, would encourage accuracy on the part of assessors and enable a taxpayer more readily to ascertain whether his own property has been valued above, or other parcels below, the legal standard. When the full-value provision is disregarded — as is almost universally the case³⁰ — assessors tend to feel they have a wider margin for error; secrecy as to the ratio or ratios actually being applied³¹ serves to conceal inequality from the individual taxpayer and hobble any challenge he may bring. Violation of full-value provisions is due in part to the practice of "competitive underassessment" among the taxing subdivisions of a state. Since county and state property taxes generally are levied on locally prepared assessment rolls,³² a municipality may succeed in paying less than its proper share of these taxes by assessing its property at a lower percentage of full value than that employed elsewhere. In addition, school aid and other forms of state-provided assistance are often allocated to cities and towns in inverse proportion to the per capita assessed value of their property.³³ Today these incentives to indulge in competitive underassessment have been diminished by the widespread use of equalization figures,³⁴ which enable the state to measure and take account of the varying assessment ratios of its taxing subdivisions. But fractional assessment has persisted.³⁵ It thrives not only on assessors' inertia, but also on their reluctance to distress constituents, who may not realize that an increase in assessed value can readily be offset by a proportionate drop in the tax rate.³⁶ Other factors encourage the system's continuance. It is often

²⁹ *Switz v. Township of Middletown*, 23 N.J. 580, 593, 130 A.2d 15, 22 (1957).

³⁰ The 1957 Census of Governments, a study performed before several of the states listed in note 28 *supra*, discarded their full-value requirements, placed the average assessment ratio in the nation at 30% of actual value. *BIRD, op. cit. supra* note 23, at 40. This disregard of legal requirements was also noted in responses to questionnaires sent to attorneys and public officials in all states by the *Review*. Of replies from 26 states, all but one (from Arkansas) described assessment below the legal standard as virtually universal. Even in those states which have adopted fractions of full value as the legal standard in an effort to conform to prevailing practice, assessment below the fractional level is reported. See, e.g., State Tax Commission of Utah, *Variance of Improved Property Assessment Levels Within and Between the Counties of Utah*, Nov. 22, 1961, p. 6 (appendix), which found a state-wide average ratio of 16.38% despite a 30% legal standard.

³¹ See text accompanying note 9 *supra*.

³² State-assessed values represent only 8.2% of the national total, and are chiefly confined to the appraisal of railroads and public utilities. *BIRD, op. cit. supra* note 23, at 14.

³³ E.g., PA. STAT. ANN. tit. 24, §§ 25-2501, -2502 (Supp. 1961).

³⁴ See pp. 1393-95 *infra*. Some states have specifically refused to utilize such figures; an act seeking to achieve a "more equitable distribution" of state aid to education through the use of average local ratios compiled by the state Department of Taxes was unsuccessfully introduced in the 1961 session of the Vermont legislature. Letter From Lawrence W. Gauthier, Municipal Tax Consultant, Vermont Department of Taxes, Dec. 11, 1961.

³⁵ See note 30 *supra*.

³⁶ See N.Y. Times, Jan. 24, 1962, p. 35, col. 2 (city ed.): "LANESBORO, Mass., Jan. 23 (AP) — Martin C. Reilly's fire man" have been for naught. Irked by a 600 per cent increase in the tax valuation of an eighteen-room house on his property, he set fire to it and let it burn down yesterday, rather than pay the tax on it. . . . Before the community reevaluated the property, the house was assessed for \$1,200. The new figure is \$8,000. The 1961 town real estate tax was \$128 per thousand

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felt that assessors should mistrust what are alleged to be inflated market levels and interpret the full-value requirement as meaning full value under "ordinary" or "normal" circumstances;³⁷ such a construction, it is argued, will ensure the stability of the tax structure, facilitate advance planning by both the government and the taxpayer, and protect the government from bankruptcy during a depression.³⁸ Thus the Administrative Code of New York City provides for the assessment of real property in the sum "for which such parcel would sell under ordinary circumstances,"³⁹ and "tax reduction" practitioners there contend that "the real estate market for the past fifteen years or more has not been normal."⁴⁰ In many localities across the country disregard of current market values has been carried to an extreme, as assessors appear never to have altered valuations made in the depth of the depression.⁴¹

Failure to obey full-value requirements is but one aspect of the haphazardness which often characterizes the assessing process and to which much of the prevailing inequality may be traced. Not only do assessors feel free to assess at only a fraction of full value, but sometimes, relying on the wide latitude derived from using an unpublished percentage, they estimate the "fractional" valuation directly without even attempting to first determine full value. "I personally wouldn't know where to begin to find such a figure," the chairman of the board of assessors in Wenham, Massachusetts, said recently.⁴² Other Massachusetts assessors likewise testified to the absence of valuation standards: "there is no particular method here," the Melrose chairman admitted,⁴³ and the Marshfield assessor complained that "we should have a system to go by, not just guesswork."⁴⁴ Even when state statutes or regulations direct that certain factors be taken into account in making an assessment, they rarely attempt to specify the relative weight to be accorded each factor.⁴⁵ "[O]pinion rather than evidence plays a strong role in the assessing process," a North Carolina observer reports, "estimation rather than measurement becomes the method of appraisal."⁴⁶ Failure to perform periodic reassessments exacerbates the situation. In Louisiana, for example,

as a practical matter there are no annual revisions of values involved in every individual assessment. The Assessor simply places the property valuation. The 1962 tax has not been set but is expected to be far below \$128, raising a question of whether Mr. Reilly will pay much, if any more taxes." (The item was accompanied by a photograph, captioned: "Matt Reilly, holding grandfather, smiles as his house burns. He set fire to it to protest higher taxes.")

³⁷ BIRD, *op. cit.* *supra* note 23, at 32.

³⁸ See LEW, REAL ESTATE TAX REDUCTION MANUAL 42 (1961).

³⁹ N.Y.C. ADMIN. CODE § 158-1.0 (1957).

⁴⁰ LEW, *op. cit.* *supra* note 38, at 43.

⁴¹ See, e.g., CAL. LEGIS., JOINT INTERIM COMMITTEE ON ASSESSMENT PRACTICES, FINAL REPORT 34 (1959).

⁴² Boston Globe, Nov. 21, 1961, p. 15, col. 5 (morning ed.) (reprinted with permission).

⁴³ *Id.*, col. 3.

⁴⁴ *Ibid.*

⁴⁵ See Note, 68 YALE L.J. 335, 337-39 (1958).

⁴⁶ LEWIS, BASIC LEGAL PROBLEMS IN THE TAXATION OF PROPERTY (REPORT TO THE COMMISSION FOR THE STUDY OF THE REVENUE STRUCTURE OF NORTH CAROLINA) 33 (1958).

on the rolls at a percentage of the sale value at the time of acquisition. This value is apt to remain unchanged for many years unless a complaint arises, at which time the complaint will be disposed of on the consideration of the individual problem, rather than a revision of all the values in a given taxing district.⁴⁷

A further factor is the widespread absence of professional and full-time assessors; forty-one states, according to a recent study, employ elected officials in this capacity.⁴⁸ Besides increasing the possibility that assessing officials will lack professional training and experience, political qualifications for office encourage practices aimed only at minimizing the number of local complaints.

B. Barriers to Administrative and Judicial Relief

All states provide for some type of administrative review of assessments. But boards of review often are inadequately staffed,⁴⁹ and in some states operate within severe statutory limitations prohibiting them, even when inequality is shown, from reducing an assessment to a level below full value.⁵⁰ In other states the boards' power to grant relief means in practice that only egregious inequities, such as a great disparity in assessments between adjoining and identical parcels, will be corrected. In Florida, it is reported, "the county commission, as a Board of Equalization, will theoretically lower an assessment to the percentage average in the county, but, as a practical matter, this is almost never done."⁵¹

Even more striking has been the general failure of state courts to translate the legal requirement of equality into effective remedies for aggrieved taxpayers. There are two principal types of action that may be brought by a taxpayer alleging that his property has been unequally assessed. First, he may bring an action designed to increase the tax burden borne by other property to the level of his own by compelling the reassessment of all property at the legally required uniform standard. Such an action will usually be in the form of a taxpayer's suit or action in the nature of mandamus, and may be labeled a "public action."⁵² Although state courts have long acknowledged the availability of this type of remedy — and indeed, before the Supreme Court's decision in *Hillsborough* tended to consider it the only relief available⁵³ — such actions have but rarely been successful. The procedural difficulties they may encounter are illustrated by the background of the *Bettigole* case.⁵⁴

⁴⁷ Letter From A. Leon Hebert, Chairman, Taxation Section, Louisiana State Bar Association, Jan. 4, 1962.

⁴⁸ KOPLIK, PROPERTY TAX ASSESSMENT IN THE UNITED STATES (PRELIMINARY REPORT TO THE NEW YORK BOARD OF EQUALIZATION AND ASSESSMENT) 94 (1961).

⁴⁹ BIRD, *op. cit.* *supra* note 23, at 70.

⁵⁰ E.g., OHIO REV. CODE ANN. § 5715.24 (Page Supp. 1961).

⁵¹ Letter From Barry L. Williams, Chairman, Committee on State & Local Property Taxation, Tax Section of the Florida Bar, Jan. 9, 1962.

⁵² Cf. Jaffe, *Standing to Secure Judicial Review: Public Actions*, 74 HARV. L. REV. 1265 (1961).

⁵³ *Township of Hillsborough v. Cromwell*, 326 U.S. 620 (1946); see p. 1376 *supra*.

⁵⁴ *Bettigole v. Assessors of Springfield*, 178 N.E.2d 10 (Mass. 1961); see p. 1374 *supra*.

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Before the court there granted injunctive and declaratory relief to the taxpayers challenging Springfield's assessment scheme, it had dismissed two similar actions. The first of these was held moot because that year's taxes had already substantially been collected⁵⁵ — although if the action had been brought earlier it might have been dismissed as premature;⁵⁶ the second was dismissed on the ground, among others, that the pleadings did not allege a sufficiently specific financial injury to the complaining taxpayers.⁵⁷ Only when the city stipulated that assessments based on a nonuniform standard had already been determined but that the tax bills had not yet been mailed, and stipulated also that full-value assessments for all properties were already on file and that new tax bills could easily be computed by the IBM machines employed for this purpose, would the court consider the merits.

In the second and far more common type of action, the taxpayer seeks not to raise all other assessments to his level but to reduce his own assessment to the level at which others have been assessed. In the context of such suits, which may be termed "private actions," the absence of effective judicial relief has been even more conspicuous. In many states an assessment will be reduced on the ground of inequality only upon a showing of "fraud," "constructive fraud," or arbitrary or capricious action on the part of the assessors or the board of review.⁵⁸ Thus a California court, finding no fraud in the sense of a "conscious failure to exercise . . . fair and impartial judgment,"⁵⁹ declared that the fact that a particular assessment is excessive, even grossly so, does not of itself make the assessment invalid.⁶⁰ Courts often emphasize that there is a strong presumption favoring the validity of an assessment.⁶¹ As a practical matter, this presumption is often impossible to rebut. Many courts, for example, insist that inequality of assessment ratios may be proved only by comparing the taxpayer's property with precisely similar parcels. Thus the Supreme Court of Iowa recently reversed a judgment for the taxpayer on the ground that the evidence was insufficient as a matter of law to prove that the prevailing assessment ratio was lower than that applied to his property.⁶² The parcel in question was a commercial garage, and the nine other parcels selected for comparison were, or had been used as, commercial garages; the supreme court held, however, that they were not sufficiently similar to the plaintiff's garage since, unlike it, all were nonfireproof and single-story structures, and all but

⁵⁵ Carr v. Assessors of Springfield, 339 Mass. 89, 157 N.E.2d 880 (1959).

⁵⁶ *Id.* at 93, 157 N.E.2d at 883.

⁵⁷ Stone v. City of Springfield, 341 Mass. 246, 168 N.E.2d 76 (1960). See also Amory v. Assessors of Boston, 310 Mass. 199, 37 N.E.2d 459 (1941).

⁵⁸ See, e.g., Fannin v. Jacinto City, 331 S.W.2d 338 (Tex. Civ. App. 1960); COLO. REV. STAT. ANN. § 137-3-38 (1953).

⁵⁹ Southern Cal. Tel. Co. v. Los Angeles County, 45 Cal. App. 2d 111, 122, 113 P.2d 773, 780 (Dist. Ct. App. 1941).

⁶⁰ *Id.* at 116, 113 P.2d at 776.

⁶¹ E.g., Alberts v. Board of Supervisors, 14 Cal. Rep. 72, 76 (Dist. Ct. App. 1961); Burrill Mutual Sav. Bank v. New Britain, 146 Conn. 669, 675, 154 A.2d 608, 611 (1959); LeDioyt v. County of Keith, 161 Neb. 615, 629, 74 N.W.2d 455, 464 (1956).

⁶² Mason v. Board of Review, 250 Iowa 291, 93 N.W.2d 732 (1958).

one occupied less ground space. The plaintiff was not arguing that his property should be assessed at the same absolute value as the others — only that their assessment levels should be considered for purposes of equality in the computation of his assessment; the court's holding may well preclude him from finding any parcel similar enough to be used in establishing inequality.⁶³ Other courts refuse to allow a taxpayer to prove inequality by showing that selected parcels comparable to his own have been assessed at a lower ratio, but require him to establish that a lower ratio prevails throughout the taxing district;⁶⁴ the resulting cost of proving the values and hence the assessment ratios of a vast number of parcels may be enormous.⁶⁵ The burden of proving inequality is further increased by holdings in several states that evidence of consideration recited in deeds is not admissible to show the value of other property,⁶⁶ and that state equalization figures purporting to show the average assessment ratio in the locality are inadmissible.⁶⁷ Finally, the secrecy that often surrounds the assessment process adds to the difficulty of securing judicial relief.

III. RECENT ATTEMPTS AT REFORM

A. Legislative

Increasingly troubled by the divergence between law and practice, a number of states have taken legislative action in recent years to alleviate assessment inequality. Several have called for reassessment of all property in the state, often providing financial and technical assistance to local officials for the purpose.⁶⁸ Some of the new statutes further direct that reassessments be conducted at specified intervals in the future,⁶⁹ and permit a state agency to demand that particular localities be reassessed at any time local conditions require.⁷⁰ To ensure that the newly determined values represent an improvement, several states have acted to introduce more standardized systems of valuation, authorizing state tax commissions to prescribe rules and regulations binding on local assessors.⁷¹ Other states, while not imposing compulsory methods, have sought to remove much of the guesswork from the valuation procedure by providing aids and advice in the form of manuals, maps, standardized assessment forms, and clinics to instruct local assessors in "scientific"

⁶³ See also *Daniels v. Board of Review*, 243 Iowa 405, 52 N.W.2d 1 (1952).

⁶⁴ *E.g.*, *Redmond v. City of Jackson*, 143 Miss. 114, 108 So. 444 (1926).

⁶⁵ See Note, 68 YALE L.J. 335, 348 n.60 (1958).

⁶⁶ *E.g.*, *Iowa Ry. & Light Corp. v. Board of Review*, 209 Iowa 687, 228 N.W. 623 (1930).

⁶⁷ *In re Williams*, 41 Luz. Leg. Reg. 143 (Pa. C.P. 1950). But see *Buerger v. Board of Property Assessment*, 188 Pa. Super. 561, 567-68, 149 A.2d 466, 470 (1959) (dictum).

⁶⁸ *E.g.*, MONT. REV. CODES ANN. § 84-429.7 (Supp. 1961); Wash. Sess. Laws 1955, ch. 251. For a summary of recent legislative reforms, see generally KOPLIK, *op. cit. supra* note 48, at 8-22.

⁶⁹ *E.g.*, UTAH CODE ANN. § 59-5-46.1 (Supp. 1961).

⁷⁰ *E.g.*, IND. ANN. STAT. § 64-714 (1961).

⁷¹ *E.g.*, ARK. STAT. § 84-103 (1960); IND. ANN. STAT. § 64-724 (1961).

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techniques.⁷² Going even further, a number of states have enacted legislation enabling localities to contract with expert appraisal firms to conduct the required reassessments.⁷³ Finally, several states — often in direct response to judicial dismay at the extent to which the requirement has been disregarded — have removed the constitutional or statutory provision for full-value assessment, substituting either a fixed fraction of full value or a provision permitting each locality to set the ratio at which its own property will be assessed.⁷⁴ Such amendments further the cause of assessment equality by enhancing the possibility that the percentage at which property is actually assessed will coincide with the published legal requirement.

Yet these reforms will not be sufficient to achieve compliance with the Supreme Court's mandate in *Sioux City*⁷⁵ and *Hillsborough*⁷⁶ unless accompanied by similar progress in the procedures for assessment appeal and review. Thus, an Indiana attorney, reporting the improvements effected by his state's attempt to reassess all property by standardized procedures and at one-third of full value, notes the possibility "that the county assessing officials will pay only lip service to the required one-third valuation ratio and continue to assess at a lower ratio, leaving the taxpayer in his present predicament as to proving discriminatory valuations."⁷⁷ Few state legislatures have acted to resolve this predicament through improvements in remedial procedures. Maryland⁷⁸ and Oregon⁷⁹ have recently established special tax courts, but it is too early to appraise their effectiveness.⁸⁰ In the only direct attempt to provide a shortcut method of proving inequality, New York has long had a statutory procedure by which a limited number of parcels are selected, by agreement between the plaintiff and the assessors, for comparison with the plaintiff's parcel.⁸¹ Yet even this system has rarely been used, apparently because of the expense involved;⁸² in New York City, at least, most complaining taxpayers — the number of those who go to court averages about 10,000 a year⁸³ — have preferred to base their appeals on the ground of overvaluation rather than inequality.⁸⁴ The New York statute recently has been amended, however, to allow the admission in evidence of average assessment ratios as disclosed by state equalization

⁷² See KOPLIK, *op. cit. supra* note 48, at 14-20.

⁷³ E.g., MICH. STAT. ANN. § 5.52(1) (1961).

⁷⁴ E.g., N.J. STAT. ANN. 54:4-2.25 (1960), reacting to *Switz v. Township of Middletown*, 23 N.J. 580, 130 A.2d 15 (1957); CONN. GEN. STAT. REV. § 12-64 (Supp. 1961), reacting to *E. Ingraham Co. v. Town & City of Bristol*, 144 Conn. 374, 132 A.2d 563 (1957).

⁷⁵ *Sioux City Bridge Co. v. Dakota County*, 260 U.S. 441 (1923).

⁷⁶ *Township of Hillsborough v. Cromwell*, 326 U.S. 620 (1946).

⁷⁷ Letter From Paul N. Rowe, Dec. 28, 1961.

⁷⁸ MD. ANN. CODE art. 41, § 318 (Supp. 1961).

⁷⁹ ORE. REV. STAT. § 305.405 (1961).

⁸⁰ See generally Federation of Tax Administrators, *State Administrative Tax Review: Organization and Practices* (Research Rep. No. 44, May 1958).

⁸¹ N.Y. REAL PROP. TAX LAW § 720.

⁸² But see N.Y. REAL PROP. TAX LAW, § 722 (providing for reimbursement of costs of proof to plaintiffs establishing that average assessment ratio is at or below level alleged).

⁸³ LEW, *REAL ESTATE TAX REDUCTION MANUAL* 76 (1961).

⁸⁴ *Id.* at 45.

figures.⁸⁵ California has provided for the annual publication of such figures.⁸⁶

B. Judicial

In most states it remains true that "the weakest spot in the whole property tax structure . . . is the machinery of protest and appeal available to the individual taxpayer."⁸⁷ Within the past five years, however, a few courts have handed down some striking decisions liberalizing the requirements for recovery in "private" actions seeking reduction of individual assessments. The Pennsylvania courts have several times dealt with the problem. In *Buerger v. Board of Property Assessment*,⁸⁸ the trial court had held insufficient a taxpayer's allegation that four parcels in his neighborhood had been assessed at the same figure as his property although they were of greater value. The appellate court reversed this ruling, declaring that the taxpayer must be given some practical way to establish inequality. The supreme court of the state has been more explicit. In *In re Brooks Building*,⁸⁹ it reversed a decision which had denied relief on the ground that the plaintiff had not proved inequality in relation to a "common level" — that is, a fixed percentage of full value that had been applied to the great majority of the parcels in the locality, though not to his. The court held that the plaintiff had met his burden of proof by showing that a few comparable buildings were assessed at ratios ranging from 40.2 to 57.2 per cent while his property was assessed at 91 per cent; it declared that

if an assessor, without actual fraud, negligently, foolishly or capriciously assessed some properties at 10% of actual value, other similar properties at 20%, other similar properties at 50%, others at 75% and plaintiff's at 90%, it would be unjust and ridiculous to hold that since there was no fixed ratio of assessed value generally throughout the district, plaintiff failed to prove a lack or violation of uniformity which the Constitution requires.⁹⁰

These decisions seem to have been qualified, however, by the Pennsylvania Supreme Court in the 1961 case of *Appeal of Rick*.⁹¹ There a taxpayer whose house had been assessed at 67.2 per cent of its full value sought a reduction on the ground that 76 newly-constructed houses had been assessed at only 35 per cent. The court, in denying relief, noted that the plaintiff's assessment ratio apparently was not above the level prevailing in the city as a whole, and that it was, in fact, lower than the ratio applied to comparable houses on the same street; it held that "a property owner is [not] entitled to have a property assessed at a rate comparable to what has been done in the instances of a few properties out of a total of more than 30,000 properties."⁹² Thus,

⁸⁵ N.Y. Laws 1961, ch. 942.

⁸⁶ CAL. REV. & TAX. CODE §§ 1818-19.

⁸⁷ NATIONAL TAX ASS'N, REPORT OF COMMITTEE ON STATE EQUALIZATION OF LOCAL PROPERTY TAXES 20 (1958).

⁸⁸ 188 Pa. Super. 561, 149 A.2d 466 (1959).

⁸⁹ 301 Pa. 94, 137 A.2d 273 (1958).

⁹⁰ *Id.* at 98, 137 A.2d at 275.

⁹¹ 402 Pa. 209, 167 A.2d 261.

⁹² *Id.* at 211, 167 A.2d at 262.

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while *Buerger* and *Brooks Building* held that evidence of only a few parcels assessed at a lower ratio was sufficient to prove inequality, *Appeal of Rick* indicates that relief will be denied when the assessors affirmatively establish that the instances of underassessment pointed to by the plaintiff are not representative of the city as a whole, and that the plaintiff has in fact been assessed at or below the common level.

The courts of New Jersey have taken a further and highly significant step toward facilitating relief for the taxpayer who, like the plaintiff in *Brooks Building*, seeks to prove discrimination but cannot show a common level at which property has generally been assessed. In a 1961 case, *In the Matter of Kents*,⁹³ the assessors themselves "disavowed consciousness of a specific ratio and portrayed the total picture as the hit-and-miss product of years of inattention";⁹⁴ they argued that the situation was too chaotic to permit relief in the form of reduction of an individual taxpayer's assessment. The plaintiff, rather than going to the expense of appraising individual parcels as evidence of a ratio lower than that applied to his own property, introduced in evidence the town's average assessment ratio as determined for purposes of intermunicipal equality by the state board of equalization, and argued that his assessment should be reduced to that level. Reversing the state division of tax appeals, the New Jersey Supreme Court granted the relief sought. It recognized that the average ratio was not an ideal instrument since individual ratios within the town varied widely, but felt that "mathematical perfection in taxation is unobtainable and hence relief should not be denied merely because the result lacks absolute precision."⁹⁵ Unless the assessors can show that the state-determined average is inaccurate, the court held, it will provide a sufficient guide for the granting of relief.

While the Pennsylvania and New Jersey courts have eased the taxpayer's task of proving assessment at a ratio above the prevailing average, the Supreme Court of Minnesota appears to have gone further and eliminated the requirement altogether. In *Hamm v. State*⁹⁶ the assessors admitted that the plaintiff's class of property had not been assessed at a uniform ratio, and it was clear that some parcels had been under-assessed in comparison to the plaintiff's; nevertheless, the trial court had denied relief on the ground that the ratio applied to the plaintiff's parcel was no higher than the average for the class as a whole. The supreme court reversed. It declared that under the state and federal constitutions a taxpayer may contest the validity of his assessment whenever *some* property of the same class has been assessed at a substantially lower percentage.⁹⁷ In remanding for a new trial the court did not consider the measure of recovery to be awarded. Its reasoning indicates, however, that the plaintiff should be granted a reduction *from* the average ratio

⁹³ 34 N.J. 21, 166 A.2d 763.

⁹⁴ *Id.* at 27, 166 A.2d at 766.

⁹⁵ *Id.* at 32, 166 A.2d at 769.

⁹⁶ 255 Minn. 64, 95 N.W.2d 649 (1959).

⁹⁷ Compare *Lindahl v. State*, 244 Minn. 506, 70 N.W.2d 866 (1955).

to some lower level — presumably that of the underassessed parcels to which he pointed in bringing his action.⁹⁸

In "public" actions, meanwhile, the highest courts of two states have granted broad relief in suits designed to rectify citywide assessment inequality. In a New Jersey case, *Switz v. Township of Middletown*,⁹⁹ the plaintiff, alleging that the average assessment ratio in the township was 15.45 per cent and that her property was assessed at a higher level, brought a proceeding in lieu of mandamus to compel the assessment of all property at full value as required by state law. The supreme court granted the relief sought, but, in view of the fact that fractional assessment was prevalent throughout the state, delayed enforcement of the decree for two years to give the legislature and local assessing agencies time to take remedial action.¹⁰⁰ Viewing the full-value requirement as essentially a method of attaining equality, the court based its decision on a finding that "there are variations of ratio making for substantial inequality in the distribution of the burdens of government violative of basic right."¹⁰¹ The other such case is *Bettigole*;¹⁰² there, although Massachusetts law requires interclass equality as well as full-value assessment, the assessors had divided property into six classes and applied ratios varying from 50 to 85 per cent. In an action brought by owners of property in the higher assessment brackets, the Supreme Judicial Court, after deciding that such widespread defects could not be cured by the sporadic correction of individual assessments, declared the entire scheme illegal and enjoined collection of the tax.

IV. THE TWO METHODS OF JUDICIAL RELIEF

A. The Public Action

Perhaps the most desirable feature of a suit demanding across-the-board reassessment is its very comprehensiveness. In the many localities discovered by the Census Bureau in which assessing practice bears little resemblance to the constitutional and statutory requirements,¹⁰³ such an action would be considerably more expeditious than a multitude of private suits to reduce individual assessments. The expense of litigation would be borne only once, and the remedial effect of the adjudication would be more permanent; whereas a taxpayer who succeeds in having his assessment reduced one year has no guarantee that it will not be increased again the next,¹⁰⁴ a decree enjoining discrimination on a city-wide basis, running against the assessors themselves and carrying the sanction of contempt, is likely to retain its force beyond the fiscal year in which it issues. Because of its sweeping and unusual nature, moreover, the successful public action is likely to attract greater publicity

⁹⁸ See also *Renneke v. County of Brown*, 255 Minn. 244, 97 N.W.2d 377 (1959) (following *Hamm*).

⁹⁹ 23 N.J. 580, 130 A.2d 15 (1957).

¹⁰⁰ *Id.* at 598, 130 A.2d at 25.

¹⁰¹ *Id.* at 593, 130 A.2d at 22.

¹⁰² *Bettigole v. Assessors of Springfield*, 178 N.E.2d 10 (Mass. 1961).

¹⁰³ See p. 1377 & note 23 *supra*.

¹⁰⁴ See *People ex rel. Hilton v. Fahrenkopf*, 279 N.Y. 49, 17 N.E.2d 765 (1938).

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than a routine assessment reduction and to have a broader effect in improving assessment practices. At the same time, the equitable or discretionary nature of the relief sought enables the court, as in *Switz*, to delay the operation of its decree and so enable municipalities to equalize their assessments without the confusion and loss of revenue that might result from reductions granted in a large number of private refund suits. Finally, the comprehensiveness of the remedy affords a guarantee that it will not, in the name of equality, actually increase overall inequality by bestowing on a single taxpayer an advantage not shared by many others similarly situated.

Yet the public action as a remedy for intraclass inequality has serious practical drawbacks. Not only are such broad-gauged suits rarely successful (*Switz* and *Bettigole* appear to be unique, and the latter was based on interclass inequality), but they are not likely often to be attempted. Their institution is discouraged by the great expense involved in establishing the invalidity of an entire assessment scheme; moreover, relief in such a suit does not provide so immediate a financial benefit as is available in a private action for an assessment reduction. When brought, the public action is likely to encounter formidable procedural obstacles, as in the cases preceding *Bettigole*.¹⁰⁵ A few courts may refuse to allow a "citizen mandamus" or taxpayer's action under any circumstances,¹⁰⁶ and others can be expected to deny this type of relief whenever the inequality appears less than pervasive. Judicial reluctance to issue a sweeping decree against assessing officials is due in part to a fear of enforcement difficulties,¹⁰⁷ since the valuation of particular parcels is thought to be largely a matter of judgment and the severe sanction of contempt lies for noncompliance. Further, judicial invalidation of an entire assessment roll may necessitate considerable expenditure for re-assessment.¹⁰⁸ Most state courts will, in general, be reluctant to interfere with their state's tax-collection processes to the extent of granting relief in a public action.

B. The Private Action

The suit brought by an individual taxpayer seeking an assessment reduction probably will continue to be by far the more common avenue of relief. Yet although this remedy is constitutionally required,¹⁰⁹ and the requirement reinforced by the law of most states,¹¹⁰ the availability of private-action relief in a state court is often uncertain. The scope of the right to a reduction can best be explored in a series of factual contexts.

Probably the easiest case is that in which the assessors have applied

¹⁰⁵ See p. 1381 *supra*.

¹⁰⁶ See Jaffe, *Standing to Secure Judicial Review: Public Actions*, 74 HARV. L. REV. 1265, 1279-80 (1961).

¹⁰⁷ See *id.* at 1307 n.118.

¹⁰⁸ Cf. *Hammermill Paper Co. v. City of Erie*, 372 Pa. 85, 88, 92 A.2d 422, 425 (1952).

¹⁰⁹ *Township of Hillsborough v. Cromwell*, 326 U.S. 620 (1946).

¹¹⁰ See p. 1376 *supra*.

a fixed ratio of assessed to true value to all property in a given class except that of the plaintiff, whose parcel has been assessed at a much higher ratio. This is the clearest instance of what the Supreme Court condemned in *Hillsborough* as "state action which selects [the individual] . . . out for discriminatory treatment by subjecting him to taxes not imposed on others of the same class."¹¹¹ And even those state courts least inclined to scrutinize assessment determinations have had little difficulty in labeling this a fraud on the taxpayer and granting a reduction to the common level.¹¹² A somewhat different question is presented when there is no common level — when the plaintiff, while contending that his parcel has been assessed at a ratio higher than the average for his class, cannot claim to be a unique or isolated victim of the alleged inequality. It may be that the ratios vary so widely as to refute the existence of any method or system; or the very uniformity with which a system has been applied may prove its arbitrariness — as where all properties have been assessed at a fixed sum without regard for differences in value. In either of these situations a state court might find that since there has been no singling out of the plaintiff for discriminatory treatment, there has been no "fraud."¹¹³ Yet it seems clear that both these types of inequality fall within the constitutional ban. In the latter case the discriminatory assessments were made "pursuant to a deliberately adopted system" within the language of *Cumberland Coal*.¹¹⁴ And in the former the chaotic dispersion of assessment ratios constitutes arbitrariness and lack of rational classification such as the fourteenth amendment equally condemns; the recent decisions of the Pennsylvania court in *Brooks Building*¹¹⁵ and the New Jersey court in *Kents*,¹¹⁶ granting reductions to the average ratio, thus appear correct.¹¹⁷

A more difficult case is that in which the plaintiff's assessment ratio is just slightly above the common level, so that the alleged inequality is relatively insubstantial in percentage terms and cannot reasonably be attributed to intentional discrimination, lack of coherent standards, or arbitrariness. Such a case seems to fall within the Supreme Court's declarations that mere errors in judgment in following a proper meth-

¹¹¹ 326 U.S. at 623.

¹¹² E.g., *People ex rel. Carr v. Stewart*, 315 Ill. 25, 145 N.E. 600 (1924).

¹¹³ See *Batson v. Pearl River County*, 204 Miss. 882, 35 So. 2d 712 (1948).

¹¹⁴ *Cumberland Coal Co. v. Board of Revision*, 284 U.S. 23 (1931).

¹¹⁵ *In re Brooks Building*, 391 Pa. 94, 137 A.2d 273 (1958).

¹¹⁶ *In the Matter of Kents*, 34 N.J. 21, 166 A.2d 763 (1961).

¹¹⁷ It has been argued that the remedy of reduction to the average level is self-defeating and inequitable. The contention is that as more and more assessments are reduced to the average, the average will itself fall, resulting in either differences in recovery for similarly situated taxpayers depending on the time of suit, or the necessity of a multitude of suits by each individual plaintiff. See Brief for Petitioners, p. 29, *Bettigole v. Assessors of Springfield*, 178 N.E.2d 10 (Mass. 1961). The argument appears to lack practical merit. Complex scorekeeping after each judgment is awarded seems unlikely, and generally would not be necessary, since a large number of reductions could be granted without materially depressing the average in a city even of moderate size. Not every taxpayer would bring suit, and the assessors would be likely to install a degree of uniformity before the reduction in revenue reached disastrous proportions; hence, the dangers feared appear largely theoretical.

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od do not violate the fourteenth amendment,¹¹⁸ and states courts thus often deny relief in their review of determinations by boards of assessment review.¹¹⁹ The scope of the court's review in such a situation should depend, however, on the particular matter in dispute and the quality of the review already afforded by the lower tribunal. When a taxpayer alleges that his property has been assessed at a ratio higher than that of comparable parcels the case may turn on either of two issues: the actual value of the plaintiff's parcel (as a determinant of the ratio applied to it), or the common or average ratio that has been applied to other parcels. When the dispute concerns only the value of the plaintiff's parcel the court's refusal to afford a close review may be justified, since judges are properly reluctant to substitute their judgment as to valuation, or that of a jury, for the presumably expert determination of the assessors. On the other hand, even on this issue insistence upon a showing of "fraud" may be unduly restrictive. Boards of review typically consist of officials identified with the executive branch of the state or local government whose assessors have made the challenged valuation;¹²⁰ in only a few states are they independent and impartial enough to meet customary standards for judicial tribunals.¹²¹ Not only are the boards likely to be understaffed, but in several states they sit for so brief a period of the year as to make thorough, careful determinations improbable.¹²² Before adopting a narrow standard of review, then, the court should assure itself that the board is affording taxpayers an effective opportunity to challenge their assessments—that the assessors are required, for example, to put forth specific grounds for their own appraisal as soon as the taxpayer has made a *prima facie* showing of overvaluation, rather than having their bare statement of opinion accepted as "substantial evidence," as it apparently was in a recent California case.¹²³ While assessors must be allowed a "tolerance zone" within which the judgments of expert appraisers may differ, valuations outside these limits, even if the result of honest errors of judgment, should entitle the taxpayer to a reduction.

When the dispute concerns not the value of the plaintiff's property but the ratio applied to other parcels, there is even less justification for limiting the scope of review to narrow questions such as fraud or bad faith. As to this issue the "flood of litigation" argument, often advanced in opposition to broad judicial review of assessment protests, is weaker, since a determination of the common or average level in one case would probably bind the assessors, morally if not legally, in other suits arising

¹¹⁸ *Sunday Lake Iron Co. v. Township of Wakefield*, 247 U.S. 350 (1918); *Southern Ry. v. Watts*, 260 U.S. 519 (1923).

¹¹⁹ *E.g.*, *LeDioyt v. County of Keith*, 161 Neb. 615, 74 N.W.2d 455 (1956).

¹²⁰ In many states county supervisors, or other local executive officers, sit *ex officio* as a board of equalization and review. See, *e.g.*, ALASKA COMP. LAWS ANN. § 16-1-65 (1949) (city council); ARIZ. REV. STAT. ANN. § 42-241 (1956) (board of supervisors).

¹²¹ *Hellerstein, Judicial Review of Property Tax Assessments*, 14 TAX L. REV. 327, 349 (1959).

¹²² See, *e.g.*, ARIZ. REV. STAT. ANN. § 42-243 (1956) (maximum of one week).

¹²³ *A. F. Gilmore Co. v. County of Los Angeles*, 186 Cal. App. 2d 471, 9 Cal. Rep. 67 (Dist. Ct. App. 1960).

from the same year's assessments. Moreover, the task of proving the general assessment level to be other than what the assessors assert has traditionally been formidable, and a procedure imposing additional burdens is likely to preclude recovery altogether. If reliable evidence of the average ratio has been introduced — as was true in *Kents*¹²⁴ as a result of the plaintiff's reliance on the state equalization figures — insistence on a showing of fraud in a board's rejection of such evidence seems indefensible. The determination requires little assessment expertise on the part of the court; moreover, if the average figures are once accepted and a reduction to that level ordered, it is likely that the administrative boards will follow suit. Even where such reliable standards are not available, the court should permit the plaintiff to make a showing of the average level in terms of a reasonable number of parcels and then place on the assessors the burden of rebutting that inference, as the Pennsylvania court has apparently done.¹²⁵

In all the factual contexts discussed so far, the property of the complaining taxpayer was assessed at a ratio above the average for property of that class. A different problem is presented when a taxpayer already assessed at or below the average alleges that an even lower ratio has been applied to other property. The problem may arise in two situations. In the first, nearly all property in the locality — including the plaintiff's — has been assessed at a common level, but there are a few isolated instances of gross undervaluation. Pointing to one of the undervalued parcels, the plaintiff alleges a denial of equality and demands that his own assessment be reduced to that ratio. Thus in *Robinson v. Stewart*,¹²⁶ a 1959 Oregon case brought by the owners of a professional building, the court found that another such building of at least equal value, located two blocks away and competing for the same type of rentals, had been assessed at an amount less than half the plaintiffs' assessment. It was conceded that the plaintiffs' building "was correctly assessed in comparison with other similar buildings, except with relation to the specific building above referred to."¹²⁷ Despite the fact that the acknowledged inequality might inflict hardship upon the plaintiffs by impairing their competitive position vis-à-vis the other office building, the Oregon Supreme Court denied relief. It held that neither state law nor the fourteenth amendment required anything more than uniformity in terms of "the general standard," and declared that "it would be absurd to reduce plaintiffs' assessment here so as to create an under-assessment because of another under-assessment and thus compound the error the assessor made."¹²⁸

The court's decision may appear quite harsh, if it is assumed that the other building was enabled by its tax advantage to lower its rents and thus lure tenants away from the plaintiffs.¹²⁹ It may be argued that the

¹²⁴ In the Matter of *Kents*, 34 N.J. 21, 166 A.2d 763 (1961).

¹²⁵ See p. 1384 *supra*.

¹²⁶ 216 Ore. 532, 339 P.2d 432 (1959).

¹²⁷ *Id.* at 534, 339 P.2d at 434.

¹²⁸ *Id.* at 538, 339 P.2d at 435.

¹²⁹ This is not a necessary consequence. Even if the two buildings each have

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equal protection clause, as construed by the Supreme Court in *Hillsborough*, requires that a reduction be granted to one who suffers such harm as the result of governmental action unjustifiably favoring another person at his expense. But the Court in *Hillsborough* spoke of "state action which selects [the individual] . . . out for discriminatory treatment by subjecting him to taxes not imposed on others of the same class";¹³⁰ and the plaintiffs in *Robinson*, as the court there emphasized, were complaining not that their parcel was overassessed as compared with the class as a whole but that another parcel was underassessed. Not only does the *Hillsborough* language seem inapplicable to such a situation, but the granting of a reduction would have the deleterious effect — as the court pointed out — of compounding the assessor's error and increasing the degree of overall inequality. It thus seems unlikely that a reduction would be constitutionally required in *Robinson*. Yet surely the plaintiffs should have some remedy — again assuming they can prove an actual competitive injury vis-à-vis the other building. The proper relief lies in a procedure by which they could compel the assessors to raise the valuation of the other building;¹³¹ this relief would eliminate the inequality of which the plaintiffs complained without increasing that of the class as a whole and without giving the plaintiffs a windfall advantage. The Oregon court implied, in fact, that such a remedy would have been available to the plaintiffs had they requested it.¹³² In a state where no procedure of this type existed, the question would arise whether the fourteenth amendment compelled the court to grant a reduction rather than leave the plaintiff remediless. Since the increased overall inequality due to the reduction could be repaired the following year by raising the assessments of both parcels, it might well be argued that — at least where the plaintiff can prove actual competitive injury — the state must grant this remedy rather than none at all.

The second situation in which the problem arises is exemplified by the Minnesota case of *Hamm v. State*.¹³³ Here, as in *Robinson*, the taxpayer was himself assessed at the class average and was complaining of inequality vis-à-vis parcels assessed at lower ratios; here, however, there is no common level but only an average, with underassessed parcels constituting a significant proportion of the class and with a roughly equal number being overassessed. In one respect the argument for granting the taxpayer a reduction is stronger than in *Robinson*, since there is no interest in avoiding the disruption of a generally prevailing uniformity.¹³⁴ Yet the question again arises whether federal or state guaranties

vacancies and thus are in actual competition for tenants, the plaintiffs' relatively higher tax bills might be reflected in lower profits rather than higher rents as compared to the competitor. In such an event it could be argued that the plaintiffs, whose property had been correctly assessed, had suffered no greater injury than the rest of the community, and that the competitor, whose profits were increased by the undervaluation, had in effect received a pro rata subsidy from all taxpayers.

¹³⁰ *Township of Hillsborough v. Cromwell*, 326 U.S. 620, 623 (1946).

¹³¹ See *Board of County Commissioners v. Buch*, 190 Md. 394, 58 A.2d 672 (1948).

¹³² 216 Ore. at 538, 339 P.2d at 435.

¹³³ 255 Minn. 64, 95 N.W.2d 649 (1959).

¹³⁴ See Note, 46 HARV. L. REV. 1000 (1933).

of assessment equality can be invoked by a taxpayer who is not himself assessed above the average ratio. The Minnesota court in *Hamm* answered in the affirmative;¹³⁵ although the court did not deal with the measure of relief, its holding appears to mean that the plaintiff should be granted a reduction to the ratio of the particular underassessed parcel to which he has pointed. But since the plaintiff is now being assessed at the average ratio he would, by definition, be paying the same amount of tax if the inequality within the class were completely purged.¹³⁶ In the absence of competitive injury, then — and none was alleged in *Hamm* — it is difficult to see any harm to the plaintiff that would justify the grant of a reduction. Moreover, the remedy is open to objections of inequity and impracticality. Since each successive plaintiff would demand a reduction to the level of the lowest assessment to which he could point, the measure of recovery might vary considerably with the good fortune experienced or effort spent in finding an instance of especially gross undervaluation. Further, the tendency of such suits to snowball as more and more taxpayers become aware of the reductions available — and the likelihood that owners of the most valuable property in the community will be the first ones into court — might undermine the municipality's tax structure. Although the authorities would probably react by ordering a complete and equal reassessment, fiscal chaos might ensue before that could be accomplished. A more fitting remedy is at hand, if the courts will choose to grant it, in the form of the relief ordered by the New Jersey court in *Switz*: a public-action decree which compels uniform reassessment in an orderly manner and without giving an unwarranted advantage to the more litigious taxpayers.¹³⁷

V. FACILITATING THE PRIVATE-ACTION REMEDY

Since the cases granting reductions will generally involve plaintiffs whose assessment is above the average ratio, the major practical difficulty facing reviewing courts is the common absence of accurate statistics by which that average, and thus the measure of recovery, may be determined. It would seem that state equalization figures, such as were employed by the New Jersey court in *Kents*,¹³⁸ can satisfy this need. Although the determination of such an average ratio for each locality has traditionally served to reconcile the different assessment levels of separate taxing districts,¹³⁹ some observers have noted the possibility of using these figures as a test of equality within the district itself.¹⁴⁰

¹³⁵ See 44 MINN. L. REV. 188 (1959), applauding the decision on constitutional grounds but making no mention of possible measures of recovery.

¹³⁶ It is assumed that a "weighted" average is being employed. See pp. 1394-95 *infra*.

¹³⁷ As another alternative, many states have statutory provisions enabling specified numbers of taxpayers to petition administrative officers for reassessment of their entire locality. *E.g.*, IND. ANN. STAT. § 64-713 (1961). See also Note, 68 YALE L.J. 335, 340 n.21 (1958).

¹³⁸ In the Matter of *Kents*, 34 N.J. 21, 106 A.2d 763 (1961).

¹³⁹ See p. 1378 *supra*.

¹⁴⁰ See, *e.g.*, *Buerger v. Board of Property Assessment*, 188 Pa. Super. 561, 567-68, 149 A.2d 466, 470 (1959) (dictum). But see *People ex rel. Yaras v. Kinnaw*, 303 N.Y. 224, 101 N.E.2d 474 (1951).

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A 1958 report found that

to prove a lack of equality the taxpayer is faced with the impossible task of conducting scientific surveys of a large number of properties other than his own in order to show the relationship between his own assessment ratio and the average assessment ratio for other properties of a similar type.¹⁴¹ If, however, the official assessment ratio findings of the state research agency were published, and if they were given some force in law, the taxpayer would be provided with the kind of machinery he deserves to have. . . . This Committee cannot condone any frustration of the constitutional guarantee of due process, whether this frustration is overt or whether it takes the disguised form of requiring impossible proofs of the litigant.¹⁴²

A system based on state determination of local assessment levels seems far preferable to a procedure requiring each successive litigant to shoulder the expense of proving the average ratio in his locality. Availability of accurate averages would free the courts from their dependence on the assessor's discretion and enable them to base their decisions on more objective standards.

Twenty-seven states are currently attempting to derive average ratio figures in one form or another.¹⁴³ There are indications, however, that the figures are often imprecise. Although both assessment and market levels change, in only 19 states are the figures revised annually, and in only seven or eight are completely new data used each year.¹⁴⁴ Only six states allocate more than \$100,000 per year for their equalization studies.¹⁴⁵ Two principal methods are employed in collecting data from which to determine average ratios. In the first, a representative sample of parcels is selected in each taxing district, normally after dividing the property in the district into several classes.¹⁴⁶ The selected parcels are appraised by experts and an average ratio of assessed to true value is determined; this average is then projected onto the entire assessment roll. The second method seeks to determine ratios by comparing the market prices of recent arm's-length property sales with the assessed values of

¹⁴¹ Such a private study furnished the basis for relief in *Mid-Island Shopping Plaza, Inc. v. Podynn*, 14 App. Div. 2d 571, 218 N.Y.S.2d 249 (1961). The cost of making such a showing was estimated at \$50,000. *Papers on Appeal, Plaintiff's Motion to Fix Expenses*, p. 17. (Footnote supplied).

¹⁴² NATIONAL TAX ASS'N, REPORT OF COMMITTEE ON STATE EQUALIZATION OF LOCAL PROPERTY TAX ASSESSMENTS 20-21 (1958). See also CAL. LEGIS., JOINT INTERIM COMMITTEE ON ASSESSMENT PRACTICE, FINAL REPORT 39 (1959).

¹⁴³ Such figures are being prepared in the following states at the indicated intervals: annually — California, Colorado, Idaho, Kansas, Kentucky, Maryland, Michigan, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, Oregon, Rhode Island, South Dakota, Utah, Washington and Wisconsin; biennially — Maine, Massachusetts, Minnesota, New Hampshire and Pennsylvania; quadrennially — Illinois, Indiana and Iowa. Letter From Ronald B. Welch, Assistant Executive Secretary for Property Taxes of the California State Board of Equalization, Feb. 8, 1962.

¹⁴⁴ See Welch, *Measuring Local Assessment Levels Between Survey Years 2, June 13, 1960*. See also N.Y. STATE BOARD OF EQUALIZATION & ASSESSMENT, PRINCIPLES & PROCEDURES USED IN ESTABLISHING STATE EQUALIZATION RATES 8-13 (1961).

¹⁴⁵ See Welch, *op. cit. supra* note 144, at 9.

¹⁴⁶ See Welch, *Measuring County Assessment Levels 4-5, Nov. 17, 1960*; N.Y. STATE BOARD OF EQUALIZATION AND ASSESSMENT, *op. cit. supra* note 144, at 14-15.

the property sold. Under either method, some attempt may be made to update the figures between survey years through use of general economic indices.¹⁴⁷ Of the two, the "representative sample" method is generally considered to provide the more accurate results.¹⁴⁸ Recent sales are often felt not to be truly representative of the properties in the district, and the common methods of ascertaining sales prices, such as revenue stamps and recorded mortgages, may often give an inaccurate picture of market values.¹⁴⁹ Yet the "sales ratio" method, because of its relatively low cost, is employed in the great majority of state equalization programs,¹⁵⁰ and can seemingly provide a better indication of the average assessment level than most taxpayers can now obtain through their own resources. If statistically sound sampling techniques are employed, care taken to keep the data up to date, efforts made to discover actual market prices through use of questionnaires and other methods, and sample appraisals added in areas lacking a significant annual turnover of property, the sales-ratio method can, at a relatively modest cost, fulfill a state's obligation to provide an adequate indication of prevailing assessment levels.

Under either method, once the data are collected the results may be tabulated in various forms. The published average may be either "weighted" or "unweighted"; whereas the latter type is based on bare assessment ratios, the former takes account of the differing values of the parcels to which the ratios have been applied, so that undervaluing a million-dollar property by one per cent would have ten times as great an effect in depressing the average as would undervaluing, also by one per cent, a parcel worth \$100,000. The weighted average — which is computed simply as the ratio of the total assessed value of the class of property to its projected total true value — seems preferable for the purposes of the private action, since reducing the plaintiff's assessment to the weighted average will place him in precisely the position he would have occupied if all property had been assessed at the same level.

Another question is whether a single average should be computed for the community as a whole, or a separate one for each class of property. The latter alternative, which would result in plaintiffs being granted reductions to the average ratio of their own class, is the better one. Such classification, as the Supreme Court has noted, may be a truer expression of "state law" than disregarded statutory language condemning it.¹⁵¹ While use of class averages will necessitate denying a reduction to an

¹⁴⁷ See Welch, *Postwar Developments in California Property Taxation* 5, Aug. 14, 1961.

¹⁴⁸ See NATIONAL TAX ASS'N, *op. cit. supra* note 142, at 29.

¹⁴⁹ See Welch, *op. cit. supra* note 144, at 7-8.

¹⁵⁰ "There is probably only one state in which a truly representative sample is employed and appraisals constitute the only full value test. I have reference . . . to California. Michigan makes considerable use of appraisals, and New York sprinkles a substantial number of appraisals among its sales. Several other states use a few appraisals together with sales prices. Most states use no appraisals." Letter From Ronald B. Welch, *supra* note 143. For an explanation of New York's utilization of appraisals as a supplement to its sales ratio studies, see N.Y. STATE BOARD OF EQUALIZATION AND ASSESSMENT, *op. cit. supra* note 144, at 15-27.

¹⁵¹ *Nashville, C. & St. L. Ry. v. Browning*, 310 U.S. 362, 369 (1940).

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average member of an overassessed class despite state statutes barring interclass discrimination, this result is preferable to the intraclass inequality that would result from attempting to remedy a broad policy of classification by piecemeal relief. The plaintiff in such a situation is in a position comparable to that of the taxpayer whose property has been assessed at a common or average level within a class, yet who is able to point to underassessed parcels: although both may possess a right to absolute equality in the sense that they could bring an action to raise the underassessed parcels to their own level, neither has a right to a particular remedy — that of reduction — which would aggravate rather than alleviate the existing inequality.

The final and most important step is acceptance of the average ratio figures by the courts. At present New Jersey appears to be the only state which views equalization averages as presumptive evidence of the prevailing assessment level,¹⁵² although the New York statute,¹⁵³ reported cases, and responses to questionnaires indicate that such averages are at least admissible before the courts and boards of review of several other states.¹⁵⁴ In the relatively few states where accurate statistics exist, the New Jersey solution should be adopted. And in the other states which now determine average ratios but by methods which are less than precise, the courts would also be wise to utilize the equalization figures to a greater extent than is presently the case. At the very least, the state-determined average will be more accurate than the results achieved by introduction of the ratios of only three or four sample parcels. Proof that a plaintiff's property has been assessed at a percentage above the equalization average should be sufficient to shift the burden of proof to the assessor, who can then be required to produce evidence of a higher ratio generally applied to the plaintiff's class of property. Increased judicial use of equalization figures in this manner might well stimulate legislative improvements in their quality, and eventually provide aggrieved taxpayers with an inexpensive and reliable method of securing relief from assessment inequality.

¹⁵² In the Matter of Kents, 34 N.J. 21, 166 A.2d 763 (1961).

¹⁵³ N.Y. REAL PROP. TAX LAW § 720.

¹⁵⁴ People *ex rel.* Hillison v. Chicago, B. & Q.R.R., 22 Ill. 2d 88, 174 N.E.2d 175 (1961); People *ex rel.* Kohorst v. Gulf, M. & O.R.R., 22 Ill. 2d 104, 174 N.E.2d 182 (1961); Letter From Maurice W. Scott, Executive Secretary Taxpayers' Federation of Illinois, Jan. 2, 1962. Compare Letter From Ernest H. Johnson, State Tax Assessor of Maine, Dec. 13, 1961: "While this office has issued annually, for the past four or five years, an estimate of the assessment practices prevailing in the various municipalities of Maine, our courts have never taken official cognizance of these ratios, and I doubt that they would do so."

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APPENDIX III

[DOCUMENT 34 — 1970]



1969 CUMULATIVE SUPPLEMENT

TO THE

Revised Ordinances of 1961

CHAPTER 5.*

ASSESSING DEPARTMENT.

SECTION 1. *Department and Divisions.* There shall be in the city a department, known as the Assessing Department, which shall be under the charge of a board consisting of an officer, known as the Commissioner of Assessing, appointed by the mayor for a term expiring on the first Monday of the January following the next biennial municipal election at which a mayor is elected, and of two other officers, known as Associate Commissioners of Assessing, each appointed by the mayor for a like term. The mayor shall from time to time by a writing filed with the city clerk designate one of the associate commissioners of assessing as the associate commissioner of assessing for motor vehicle excises and the other as the associate commissioner of assessing for poll taxes.

Said board shall divide the assessing department from time to time into a real estate appraisal division, a statistical research division, and such other divisions as said board shall adjudge necessary for the proper conduct of the department.

SECT. 2. *Powers and Duties of Commissioner of Assessing.* The commissioner of assessing shall, for the assessing department including the board of review, exclusively have the power, and perform the duties,

* As amended by Ord. 1961, c. 1, s. 4.

conferred or imposed by law on the assessor in existence immediately prior to the taking effect of this ordinance with respect to the acquisition and disposal of property, the making of contracts, and the appointment, suspension, discharge, compensation and indemnification of subordinates. The commissioner of assessing shall also have the powers and perform the duties conferred or imposed by law on the assessor and the board of review in the assessing department in existence immediately prior to the taking effect of this ordinance with respect to taxes other than poll and motor vehicle excise taxes, and shall further have the powers and perform the duties from time to time conferred or imposed on assessors of cities in Massachusetts by general laws applicable to Boston with respect to taxes other than poll and motor vehicle excise taxes.

SECT. 3. *Powers and Duties of Associate Commissioners of Assessing.* The associate commissioners of assessing shall have the powers and perform the duties conferred or imposed by law on the assessor in existence immediately prior to the taking effect of this ordinance with respect, in the case of the associate commissioner of assessing for motor vehicle excises, to motor vehicle excise taxes, and in the case of the associate commissioner of assessing for poll taxes, to poll taxes, and shall also have the powers and perform the duties from time to time conferred or imposed on assessors of cities in Massachusetts by general laws applicable to Boston with respect, in the case of the associate commissioner of assessing for motor vehicle excises, to motor vehicle excise taxes, and in the case of the associate commissioner of assessing for poll taxes, to poll taxes. In addition, each associate commissioner of assessing may, at such time as he shall have been so authorized by written designation signed by the commissioner of assessing, approved by the mayor and filed with the city clerk and such authorization shall not have been revoked in like manner, exercise the powers and perform the duties of commissioner of assessing in relation to such matters as may be specified in such designation. In the event of the absence, disability or vacancy in office of an associate commissioner of assessing, the powers and duties conferred or imposed upon him by or under this section shall be exercised and performed by the other associate commissioner of assessing.

SECT. 4. *Board of Review.* There shall be in the assessing department a board, known as the Board of Review, consisting of (1) such person in the service of the real estate appraisal division of the assessing department as the mayor, by a writing filed with the city clerk after the commencement of a municipal year, shall

designate to serve *ex officio* on said board at his pleasure during such year, who, while so serving, shall be chairman of said board, (2) such person in the service of the statistical research division of the assessing department as the mayor in like manner shall designate to serve *ex officio* on said board at his pleasure during such year, and (3) such person as the mayor shall appoint from the public

at large to serve on said board for a term expiring on the first Monday of the January following the next biennial municipal election at which a mayor is elected.

It shall be the duty of the board of review to review every application for the abatement of a real estate or personal property tax and report to the commissioner of assessing its findings and recommendations with respect thereto, including such suggestion for settlement, if any, as, after discussion with the applicant, the board may think proper.

SECT. 5. *Application for Abatement.* Every application for abatement filed with the assessing department shall be deemed to be filed with, and shall be forthwith transmitted to, in the case of an application for the abatement of a real estate or personal property tax, the commissioner of assessing, in the case of an application for the abatement of a motor vehicle excise tax, the associate commissioner of assessing for motor vehicle excises, and in the case of an application for the abatement of a poll tax, the associate commissioner of assessing for poll taxes.

APPENDIX IV

THESE HOME IMPROVEMENTS.....can be made without an increase in assessment

INSIDE

New Furnace replacing one of same type
Automatic hot water
Plaster repairs
Redecorating (painting and wallpaper)
New Kitchen cabinets, cupboards and counters
Added closets or other built-ins
New ceilings
New wall surfacing
Add built-in vent fans
Wiring modernization including additional electrical outlets
Replace plumbing and light fixtures (if not part of complete modernization)

OUTSIDE

Repointing, repairing and replacing existing masonry
Repairing and replacing porches and steps
Remove unused porch or exterior trim
Repairs to fire escapes
Replacing window sash and sills
Insulation, weather stripping, storm windows and doors
Exterior awnings and window shutters
Add or replace gutter downspouts
Outside painting
Outdoor electric cable and outdoor lights
Repairing or replacing private walls
Replace dilapidated sheds and garages with rear lot parking area
Paving rear lot parking area (less than 500 sq. ft.)
New fences or walls
Lawns, landscaping, lawn sprinkler systems
New sheds to store garbage and rubbish containers
New roof or siding

SOURCE: JAMAICA PLAIN - Community Improvement Program
City of Boston, Housing Inspection Department

APPENDIX V

AS TO PROPERTY OF A HOUSING AUTHORITY
CHAPTER 121, (1938, 484; 1943, 148; 1946, 574, § 1)

Section 26R. Exemption from Taxation: Payments in Lieu of Taxes. — The real estate and tangible personal property of a housing authority (including houses constructed by a housing authority on private land in rural areas under the provisions of section twenty-six II shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments; provided, that in lieu of such taxes, betterments and special assessments, a city or town in which a housing authority holds real estate used or to be used in connection with such a project may determine a sum to be paid to the city or town annually in any year or period of years such sum to be in any year not in excess of the amount that would be levied at the current tax rate upon the average of the assessed value of such real estate, including buildings and other structures, for the three years preceding the acquisition thereof, the valuation of each year being reduced by all abatements thereon, as compensation for improvements, services and facilities, other than gas, water and electricity, furnished by such city or town for the benefit of such project. Such a city or town may however agree with such a housing authority upon the payments to be made to the city or town as herein provided or such housing authority may make and such city or town may accept such payments, the amount of which shall not in either case be subject to the foregoing limitation. The last paragraph of section six and all of section seven of chapter fifty-nine shall, so far as apt, be applicable to payments under this section.

Nothing in the housing authority law shall be construed to prevent the taxation, to the same extent and in the same manner as other real estate is taxed, of real estate acquired by a housing authority for a land assembly and redevelopment project and sold by it, or of the leasehold interests and buildings and other structures belonging to private individuals or corporations on land acquired and held by a housing authority for such a project and leased by it; provided, however, that real estate so acquired by a housing authority and sold or leased to an urban redevelopment corporation organized under chapter one hundred and twenty-one A, or to an insurance company or savings bank or group of savings banks operating under said chapter, shall be taxed as provided in said chapter and not otherwise.

304 Mass. 288, 507.

URBAN REDEVELOPMENT CORPORATIONS
Chapter 121A (1945, 654)

Section 10. For a period of forty years ^{*} ^{*} ^{*} after the organization of any such corporation, such corporation and all its real and personal property, including all real and personal property leased by it from a housing authority or from a redevelopment authority or from a city or town or a corporation wholly owned or controlled by a city or town, shall be exempt from taxation and from betterments and special assessments; and for such period any such corporation shall not be required to pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions; provided, however, that notwithstanding the foregoing provisions of this section, any such corporation shall be required to pay (1) the excises and sums respectively prescribed by this section and section fifteen; (2) excises assessed under chapter sixty A and acts in amendment thereof or addition thereto; and (3) excises imposed by chapter sixty-four A and acts in amendment thereof or addition thereto; and provided, further, that nothing in this section shall be construed to prevent any such corporation which enters into a contract under section fourteen from agreeing therein to make, or from making pursuant thereto, payments in lieu of betterments or special assessments.

Notwithstanding the foregoing provisions of this section, the assessors of every city or town in which real or tangible personal property exempted by this section from taxation under chapter fifty-nine is situated on January first of any year shall, on or before March first in such year, determine and certify to the state tax commission and to the corporation organized under this chapter which owns or leases such property the fair cash value of such property as of January first in such year. On or before the first day of April then next ensuing, such corporation, if

aggrieved by such valuation, may appeal therefrom to the appellate tax board. Said board shall hear and decide the subject matter of such appeal and give notice of its decision to the state tax commission, the assessors and the corporation; and, except as provided in section thirteen of chapter fifty-eight A, such decision shall be final and conclusive.

During the period of forty years after the organization of a corporation under this chapter, such corporation shall pay in each calendar year to the commonwealth with respect to its corporate existence at any time within the preceding calendar year an excise equal to the sum of the following: namely, an amount equal to five per cent of its gross income in such preceding calendar year, from all sources, and an amount equal to ten dollars per thousand upon the valuation determined as hereinbefore provided to be the fair cash value as of January first in the year in which the excise becomes payable of all real and tangible personal property of such corporation, including all real and tangible personal property leased by it which is exempted by this section from taxation under chapter fifty-nine; provided, that the excise payable in any year shall not be less than the amount which the city or town would receive for taxes, at the rate for such year, upon whichever of the following valuations is the lesser: (a) the valuation upon which the aforesaid amount equal to ten dollars per thousand is computed; or (b) the average of the assessed valuations of the land and all buildings and other things erected thereon or affixed thereto on the three assessment dates, in the case of land purchased, taken or leased by such corporation from a housing authority, redevelopment authority, city, town or corporation wholly owned or controlled by a city or town, next preceding the acquisition of the land by such housing authority, redevelopment authority, city, town or wholly owned or controlled corporation, and in the case of all other land purchased, taken or leased by a corporation organized under this chapter, next preceding the acquisition thereof by such corporation, the assessed valuation for each assessment date being reduced by all abatements, if any.

Any plan for a project may provide that the project may be developed in separate stages, and such stages may be varied from time to time with the approval of the housing board. Whenever a project shall be developed in stages, any excise payable with respect to corporate existence in a calendar year ending before construction of the last stage of the project is completed, shall be computed as though each stage constituted a separate project owned by a separate corporation.

All provisions of chapter sixty-three relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, applicable to domestic business corporations, as defined in section thirty of said chapter, shall be applicable to the excise payable under this section. Said excise shall be distributed, credited and paid to the city or town where the project of the corporation is located.

Real estate acquired by a corporation organized under this chapter by lease from any person other than a housing authority, redevelopment authority, city, town or corporation wholly owned or controlled by a city or town, shall be subject to taxation in the same manner and to the same extent as if such real estate were wholly owned and occupied by a private person; but so long as the period of forty years from the organization of such corporation has not expired and the leasehold estate continues to be held by such corporation, all buildings and other things erected by such corporation on, or affixed by such corporation to, any land acquired by such corporation by such lease shall, for the purposes of this chapter and of chapter fifty-nine, be deemed to be tangible personal property of such corporation. Real estate acquired by lease as aforesaid shall be excluded in making determinations and computing the excise under this section, except that the assessed valuation of all buildings and other things erected thereon or affixed thereto on the three assessment dates next preceding acquisition by such lease shall be included in computing the average valuation under clause (b) of the third paragraph of this section.

Notwithstanding any other provisions of this chapter or of any other law, the assessors of the city or town in which a project is to be located may, and upon the request of the housing board they shall, determine for the purposes of this section the maximum fair cash value of any proposed project or of any stage or stages thereof. Such determination may be made prior to the construction of the project or of any stage or stages thereof on the basis of the plan for such project, stage or stages. Whenever any such determination shall have been made, the fair cash value of the real estate and tangible personal property of the corporation shall in no event be valued for the purposes of this section in an amount exceeding such maximum fair cash value, except upon a showing that the corporation has acquired real estate or tangible personal property not included in the plan upon which such max-

imum fair cash value was based, and in such event any such excess valuation shall be limited to the value of such additional real estate and tangible personal property.

1953, 647, § 3.
1956, 640, § 4.

334 Mass. 760.
343 Mass. 375.

* * *

Section 15. Should the gross receipts of any such corporation from the operation of a project undertaken by it under authority of this chapter, in any year exceed (a) operating and maintenance expenses, (b) taxes and fees, (c) interest on mortgages and other indebtedness, (d) dividends, (e) authorized transfer to surplus, and (f) amortization, the amount remaining shall be applied to the payment to the city or town in which the project is located of the amount, if any, by which the taxes which would have been assessed upon the real estate and tangible personal property of the corporation in such year if such real estate and tangible personal property had not been exempt from taxation, exceeded the excise paid by such corporation and distributed to such city or town in such year under section ten.

The balance, if any, may, subject to the approval of the housing board, be applied in whole or in part to reducing the indebtedness of such corporation, to renovating or to improving the property, as by installing additional facilities for the use of tenants, to the acquisition and development of additional property which shall be subject to the same control and regulation as the original project.

The charges for operation and maintenance may include insurance and reserves essential to the management of the property or necessary to meet requirements for depreciation and amortization of bonded indebtedness, but the amount set aside therefor shall be subject to the approval of the housing board. Nothing in this chapter shall be construed to obligate the commonwealth, or to pledge its credit, to any payment whatsoever to any such corporation or to any stockholder, bondholder or creditor thereof.

1953, 647, § 4.

341 Mass. 760.

APPENDIX VI

NEW MEXICO TAX MAP AND PARCEL IDENTIFICATION SYSTEM

Ownership and identification maps are an essential tool for the assessor's office. They are used not only to note the relative size, location and shape of parcels, but also as a basis of the descriptions necessary to sustain the property tax levy. Completed copies of these maps have also been used to record the location of utilities, services and land values.

Legislatures and the courts, in an effort to protect the taxpayer in his rights have required an adequate description of the property being taxed. These descriptions generally fall into the following categories:

1. A metes and bounds description wherein the assessor describes the parcel in terms of the names of the abutting property owners. There may or may not be linear dimensions and bearings included with each boundary description.
2. A description using a particular subdivision name, block and lot number which is known to be the parcel being taxed, or it may be a section or part of a section in a General Land Office Township.
3. A description using as a reference the particular volume or folio and page number in the county clerk's records, on which is noted the public record of the current owner's deed.

These three descriptions are generally considered adequate for purposes of passing title and therefore certainly adequate for property tax assessment and collection purposes. In addition the various legislatures and the courts throughout the United States, including New Mexico (see NMSA 72-3-1), have allowed assessment officials to use ownership identification maps (tax maps) when they were properly maintained, as a basis of descriptions for property taxing purposes. The rule appears to be that anyone using the map description of a property must be able to locate the property with a reasonable amount of facility.

A major problem for the assessor's and treasurer's offices in the use of metes and bounds descriptions is the considerable effort that has to be made to write the descriptions each year, let alone maintain changes in the bounds as abutting ownerships change. Similarly, there is the problem of continually adding exceptions to volume and page numbers as an owner sells portions of his property.

Location - Sequence Code System

In 1953 the New Mexico Legislature, in order to facilitate the maintenance of tax records, passed an act providing for a system of identifying real property by a number or symbol. The system developed in accord with the provisions of this statute, is based on United States public land surveys of townships and sections within the state.

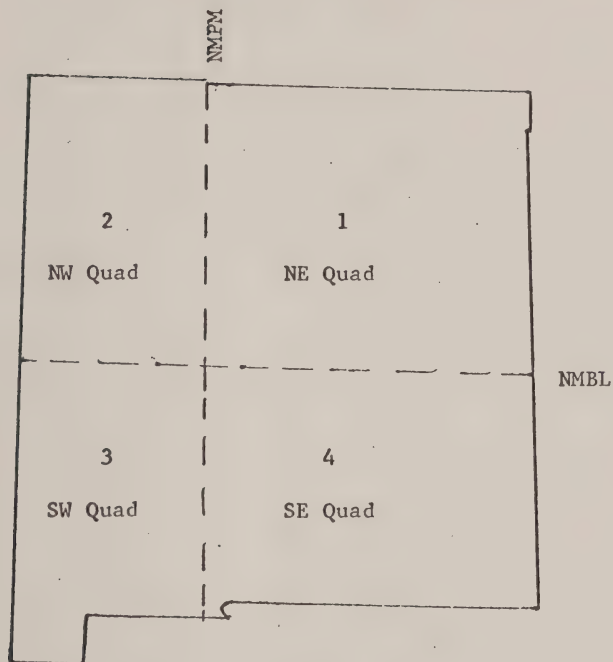
The system provides for a number or code that will locate the center of each property within a tolerance of acceptable limits. This number system is broken into two areas with six segments and a total of eighteen digits. The first area is the location code by which the property may be located. The second area is a sequence code which is utilized to maintain the assessor's record cards in a manner that allows him to keep the information on each parcel in a particular block in one file so that it can be reviewed easily as current needs demand. The complete code format is as follows:

<u>Location Area</u>						<u>Sequence Area</u>		
State Quad	Section		Grid Location		Section Quad	Block	Lot	
	<u>E/W</u>	<u>N/S</u>	<u>E/W</u>	<u>N/S</u>				
Digit Numbers	1	2,3,3	5,6,7	8,9,10	11,12,13	14	15,16	17,18
	X	X X X	X X X	X X X	X X X	X	X X	X X

Location Area

The state was divided into four quadrants by the system of public land surveys. The two lines that intersect at right angles to form the quadrants are known as the New Mexico Prime Meridian (vertical axis) and the New Mexico Base Line (horizontal axis). In this numbering system, the northeast quadrant is numbered 1, the northwest quadrant - 2, the southwest quadrant - 3 and the southeast quadrant - 4.

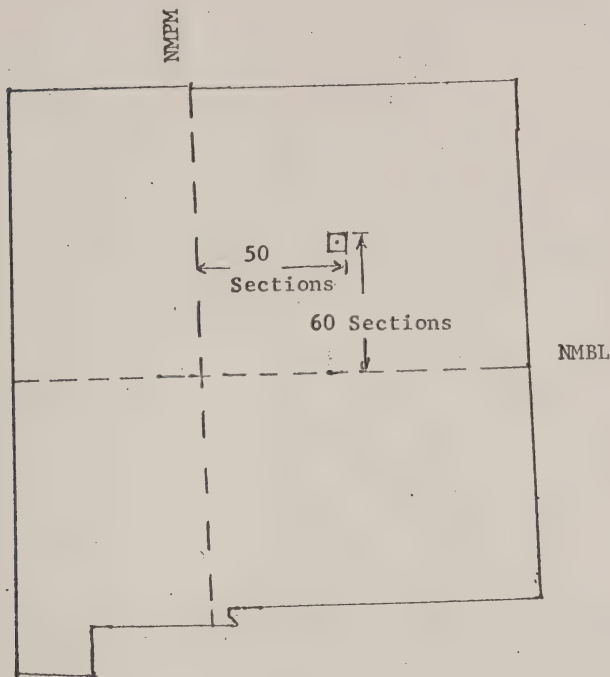
Illustration of State Quad Numbers



Digits 2, 3 and 4 represent the number of General Land Office sections east or west of the New Mexico Prime Meridian in which a particular property is located. If the state quad is numbered "1" or "4", the section location and count will always be to the east of the Prime Meridian. When the state quad number is "2" or "3", the section will be west of the Prime Meridian and the count will be toward the west.

The next three digits - numbers 5, 6 and 7 - represent the number of sections north or south of the New Mexico Base Line in which the particular property is located. If the state quad is numbered "1" or "2", the section will be north of the Base Line and the sections will be counted toward the north. State quad numbers "3" and "4" indicate that the section is south of the Base Line and the sections will be counted toward the south.

Illustration of Section Numbers

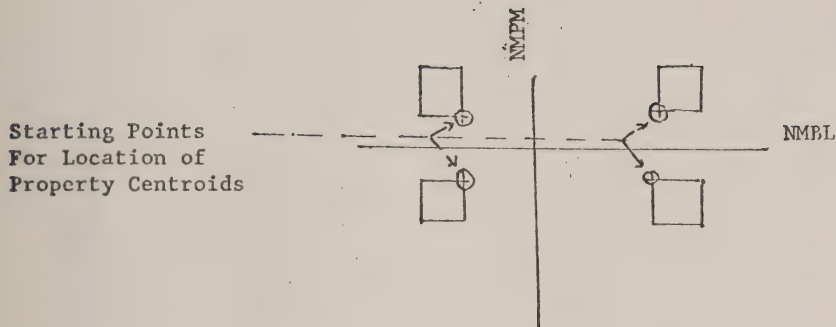


The above noted section is the fiftieth section east of the Prime Meridian and the sixtieth section north of the Base Line.

The location code for this section reads:

<u>State Quad</u>	<u>Section</u>	
	<u>E/W</u>	<u>N/S</u>
1	050	060

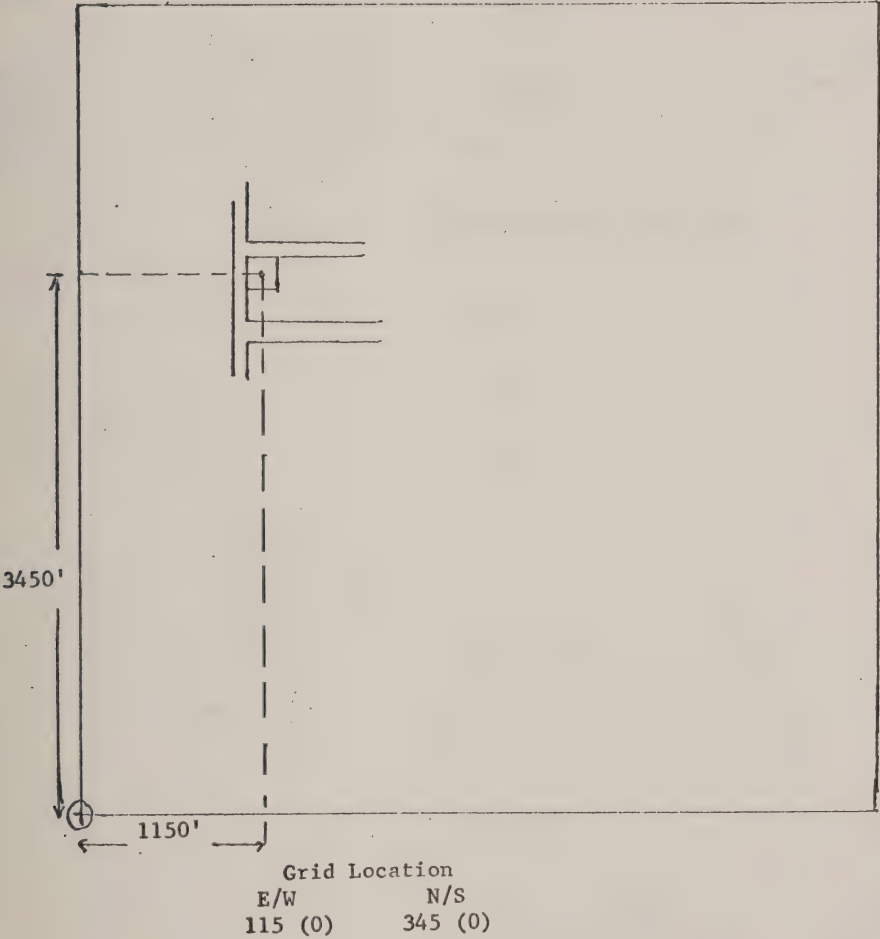
Once the section has been located and numbered, as noted above, the center point of the parcel within the section can be located by measuring east or west of the starting point and then north or south of the starting point. The location of the starting point of the section varies depending in which state quadrant the section lies. Simply stated, the starting point of each section is normally that corner of the section lying nearest the intersection of the New Mexico Prime Meridian and the New Mexico Base Line. This starting point will be designated by a cross within a circle, e.g. (+).



The first three digits of the "Grid Location" segments of the code - numbers 8, 9 and 10 - represent the measurements in feet to the nearest ten feet, with the last zero dropped, east or west of the starting point. Here, as in the "Location Section" segment, the direction of measurements is toward the east when the state quad number is "1" or "4" and toward the west when the quad number is "2" or "3".

The second three digits of the "Grid Location" segment - numbered 11, 12 and 13 - represent the measurements in feet to the nearest ten feet with the last zero dropped, north or south of the starting point. If the state quad number is "1" or "2", the direction of the measurements from the starting point is toward the north. If the state quad number is "3" or "4", the direction of the measurements is southerly from the starting point.

Illustration of Grid Location

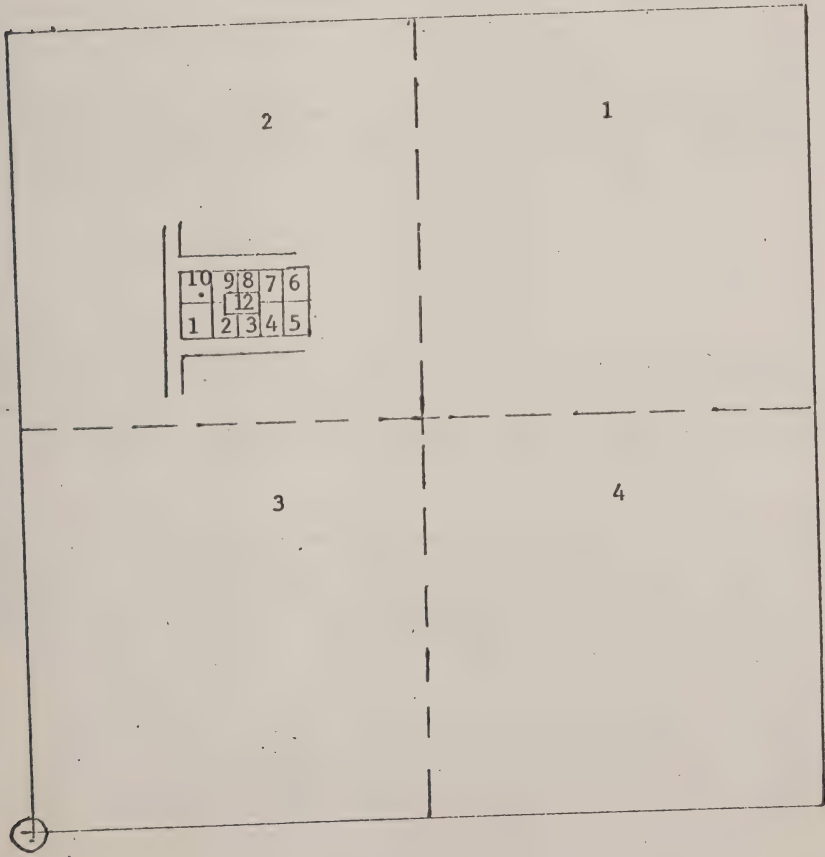


Sequence Area

The sequence area of the code is broken into segments with a total of five digits. These segments are: (1) The quadrant or quarter section of the section. (2) An arbitrary parcel number.

The section is divided into quarter sections which are numbered in a manner similar to the state quads. The northeast quarter is "1"; the northwest quarter is "2"; the southwest is "3" and the southeast is "4". The quadrant number for digit #14 is determined by the location, within its bounds, of all or a major portion of the block containing the parcel to be numbered.

Illustration of Quarter-Section Location



In this illustration Block #12 is located in section quad #2, and would be written as follows:

Section
<u>Quad</u>

2

Block numbers for coding purposes, are assigned starting at the southwesterly corner of the section quad and moving consecutively easterly along the line of the south side of the quad and then, when the lower blocks are numbered, the next higher tier is numbered in the same fashion, etc. Two digits, numbers 15 and 16 are provided for this purpose. Using the section quad illustration above, the block number would be as follows:

Section	
<u>Quad</u>	<u>Block</u>
2	12

Lot numbers are assigned consecutively within the block starting at the southwest corner and moving counter-clock wise around the block. Digit numbers 17 and 18 are used for this purpose. Again, using the section quad illustration, we would have the following sequence number for lot 10 of block 12:

Section		
<u>Quad</u>	<u>Block</u>	<u>Lot</u>
2	12	10

NOTE: The numbering system calls for 18 digits. If, for example, in the sequence area lot segment, the lot number is "5", position "17" on the numbering system should call for no number. In such an instance a zero should be placed in that position. No position in the code should be without either a number or a zero.

Parcels

Each parcel must have its own code number. A parcel is defined as a non-contiguous ownership of land and improvements. Contiguous parcels to be included in one description or code number must touch at more than one point. Touching at corners does not satisfy the requirement of contiguity. Examples of situations in which there are parcels that must have separate code numbers are illustrated below:

- A farm or ranch divided by one or more roads, rivers or ditches.
- A ranch of more than one section, whose sections do not abutt one another.
- Lots in a plat or subdivision which do not have common boundaries.
- A lot divided by a railroad.

Numbering the Maps

Maps should be drawn to such a scale that the location grid code and the sequence lot number may be easily noted on the map and within the boundaries of the parcel. Block numbers in the sequence area of the code will be noted within a square, e.g. [2], and the lots thusly:

243-342

1

for the location grid and sequence lot number.

The maximum scale to be used in mapping will be 1" = 100'. A quarter section will be the smallest area included in one map.

In farm and ranch areas with a small number of parcels, it will be permitted to map on a township basis with a scale of 1" = 1000'. In maps of this scale, it will be necessary to note the state quad and location section codes as well as the grid segment and sequences codes on each parcel. Whenever the ownership includes several sections it will be permissible to code that section which abutts a road or highway and make reference of the adjoining sections to the code number in the first section. For example: "Y" owns all of Township 21 North, Range 9 West. Section 13 (2-049-124-264-1-01-01) lies on the road. All the other sections on this map should bear the reference "See 2-049-124-264-1-01-01". Information relative to the ownership, type of use, type of soil, improvements, etc. for the whole township should be listed on the property record card for this one section number.

Special Rule 1 - Grants and Unsurveyed Areas

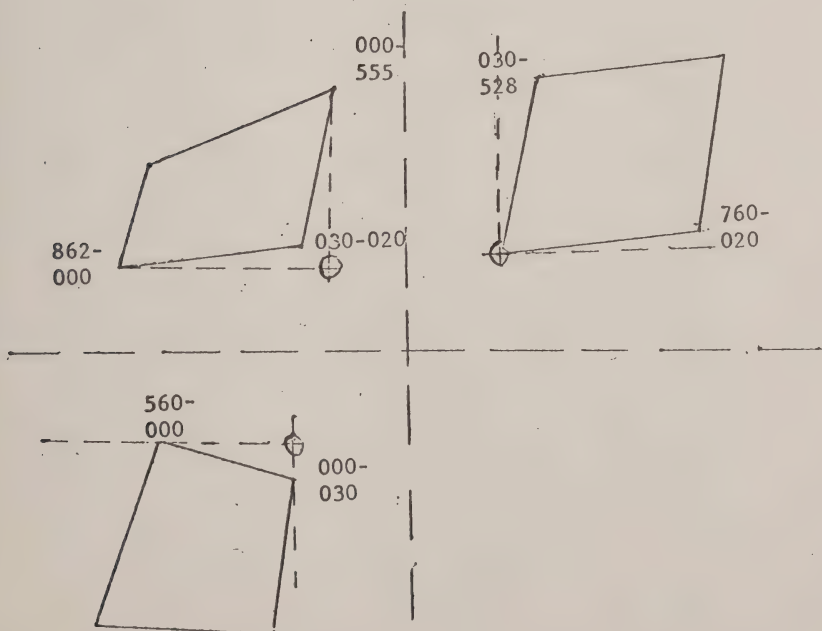
There are a number of areas within the state for which General Land Office section lines have not been established, for example, the Bartolome Fernandez Grant, the Cebolleta Grant, Laguna Indian Reservation, Town of Alameda Grant and others. "Township" and "Section" lines can be established for coding purposes in these areas by arbitrarily extending adjacent township and section lines easterly or westerly and northerly or southerly as the case need be. On that basis, the sections would be numbered as if surveys had already been established.

Special Rule 2 - Odd Shaped and Sized Sections

Normally the section is approximately one mile square and almost, if not, a perfect square. However, in some cases, old surveys have provided oblique or four sided sections with no two sides being parallel or having the same dimensions. The numbering system will adequately take care of any section with dimensions up to 9999 feet either direction. Should the section exceed this length, it should be split and handled under Special Rule 1 or 3 with adequate notations being made on the maps drawn.

When the section is not a square or a rectangle, the starting point for measuring the "Grid Location" may not be at that corner of the section nearest the intersection of the Prime Meridian and the Base Line. Rather it will be located in the vicinity of this corner at a point where, if imaginary lines are drawn parallel to the Base Line and Prime Meridian, they will intersect only those corners of the section that are nearest these two grid coordinates. In each instance where the starting point does not coincide with the corner of the section nearest the Base Line - Prime Meridian intersection, the grid coordinates of this corner, together with those of at least two other corners, should be noted on the map. This is necessary so that any person, desiring to use a grid or other measuring device on this section, will have well fixed points from which to work.

Illustration of Oblique Sections with Starting Points and Numbering of
Section Corners

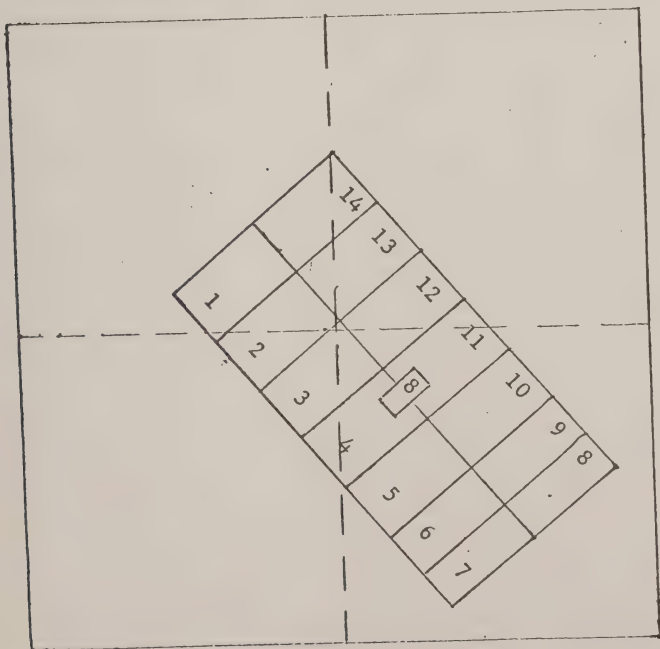


Special Rule 3 - Half Townships, Gores, Etc.

Occasionally a range or tier of sections has been inserted between the townships to adjust for inadequate old surveys or for curvature of the earth. In such instances, the particular section involved should be included in the map of the next adjacent smaller numbered section (numbering the sections from the Prime Meridian and Base Line). Notations as to which section has been added to which should be made on the tax maps involved, the tax map index and the assessor's records.

Special Rule 4 - Sequence Area - Blocks Lying in More Than One Section Quad

In some instances a block (group of lots surrounded by one or more roads) will extend from one quad into one or more quads. In this instance, that quad containing the major portion of the block will be the only quadrant number used in numbering the complete block for sequence purposes. The location grid segment indicates in which quad the parcel is located.

Illustration

Block #8 lies in all four quad sections, lots 1, 2, 13 and 14 lies outside of quad 4. However, since the majority of the block lies within quad 4, the section quad number for all lots will be 4.

Special Rule 5 - Sequence Area - Blocks Lying in More Than One Section

Whenever the block straddles two or more section lines, the block will be divided into two or more blocks for coding purposes, base on section lines. The centroid or center points of the lots will determine in which section the parcel will fall. The two blocks will then follow the rules previously noted above.

Special Rule 6 - Lot Numbering - Parcels Located in Two Taxing Jurisdictions

When one parcel lies in two taxing jurisdictions, although it is otherwise a single parcel, it will be divided into two lots whose boundary will be the tax jurisdiction boundary - e.g. A parcel that crosses the line between the School District 1 and School District 2 will have two separate grid coordinate numbers in the location area and two separate block and lot numbers in the sequence area of the code.

APPENDIX VIIGUIDELINES FOR ESTABLISHING STANDARDS OF CONDUCTANDSTANDARDIZING DISCIPLINARY ACTIONS

There exists a definite need within the city and county service for providing department heads and supervisors with guidelines and procedures for disciplining their employees. The following procedure should be adopted immediately, on a government-wide basis, for reprimanding employees either verbally or in writing for minor misconduct which does not warrant suspension or discharge. This will be useful in providing an accurate record upon which the more serious types of disciplinary actions can be based:

(1) Verbal Reprimand

This means of correcting an employee after misconduct is normally used by the immediate supervisor, but also can be used by higher-level supervision. It simply means that the employee is corrected by word of mouth, his errors are explained and a warning is given that work must improve.

The reprimand should be administered as soon as possible after the employee has been guilty of violating the accepted procedure. The following are circumstances which might warrant such disciplinary action:

- (a) Carelessness which results in injury of another employee.
- (b) Carelessness which results in damage or loss of city property.

(c) Employee performs substandard work or makes errors requiring that the job must be done over.

(d) Employee is late for work or overstays lunch period.

(e) Employee has unclean habits or appearance which result in poor employee or public relations.

(f) Employee violates any of the normal rules of accepted conduct for the job he is doing.

(g) Employee commits breach of discipline as a first offense, and the supervisor decides to be lenient.

There are other examples which could be given, but these are sufficient to indicate that, as a rule, the verbal reprimand should be given for carelessness, poor work or violation of a departmental rule, and usually only for a first offense.

The facts -- time, date, place and circumstances concerning the reprimand -- should be entered on the employee's record. Such a record may be useful later if other more serious offenses are committed.

(2) Written Reprimand

The written reprimand may be given for exactly the same reasons as the verbal reprimand. It should be given for second offenses, or it may sometimes be used as a substitute for a suspension. Its use should be determined by the judgement of the supervisor.

A written reprimand is effective because it indicates to the employee that official notice has been taken that his conduct is unsatisfactory and that the record will show evidence that he has been

given a second chance. It is also notice that future misconduct of the same type may not be excused.

It has been the rule-of-thumb in private business organizations to give an employee three chances before dismissal unless the offense is very serious. A written reprimand is official notice that one of the three chances has been used up. Therefore, the written reprimand is viewed as a rather severe penalty. Many employees will go to great lengths to keep a written reprimand from becoming a part of their personnel records.

The written reprimand should be issued promptly and should contain information regarding the date, place and reason for the action, and notice that the document will form part of the employee's service record. A copy of the document should be filed in the employee's department and another forwarded to the personnel division.

Dismissals, Demotions and Suspensions

(a) The appointing authority may remove any employee with status only for cause after furnishing the employee and the Civil Service Board with a written statement of the reasons for dismissal and allowing the employee fifteen (15) calendar days to reply thereto in writing, or upon request, to appear personally or with counsel and reply to the appointing authority.

Just causes for dismissal, demotion in the service or suspension are listed below although dismissal, demotion or suspension may be made for other just causes.

- (1) The employee has been convicted of a felony, or of a misdemeanor involving moral turpitude.
- (2) The employee has wilfully, wantonly, unreasonably, unnecessarily or through culpable negligence been guilty of brutality or cruelty to an inmate or prisoner of an institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self-defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody.
- (3) The employee has violated any of the principles of the merit system or these Rules.
- (4) The employee has been guilty of any conduct unbecoming an officer or employee of the Consolidated Government, either on or off duty.

- (5) The employee has violated any lawful official regulation or order or failed to obey any proper direction made and given by a superior officer.
- (6) The employee has been under the influence of intoxicants while on duty.
- (7) The employee has been guilty of insubordination or of disgraceful conduct, either on or off duty.
- (8) The employee is offensive in his conduct or language in public, or towards the public, officials, or employees, either on or off duty.
- (9) The employee is incompetent or inefficient in the performance of the duties of his position.
- (10) The employee has received two successive service ratings which are unsatisfactory.
- (11) The employee is careless or negligent with the moneys or other property of the Government.
- (12) The employee has failed to pay or make reasonable provisions for future payment of his debts to such an extent that such failure be detrimental to the reputation of the Consolidated Government Service.
- (13) The employee has used or threatened to use, or attempted to use, personal or political influence in securing promotion, leave of absence, transfer, change of pay rate, or character of work.

- (14) The employee has induced, or has attempted to induce, an officer or employee of the Consolidated Government to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order.
 - (15) The employee has taken for his personal use from any person any fee, gift, or other valuable thing in the course of his work or in connection with it, when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.
 - (16) The employee has engaged in outside business activities on Government time, or has used Consolidated Government property for such activity in violation of Rule 11.4.
 - (17) The employee has failed to maintain a satisfactory attendance record.
- (b) An employee with status may appeal actions under this Section according to Rule 13.
 - (c) A dismissed employee may be required to forfeit all accrued leave.



THE FINANCE COMMISSION
OF
THE CITY OF BOSTON

Three Center Plaza
Boston, Mass. 02108

Members:

James T. Parera, Chairman
J.P. McNamara
J.S. Codman, Jr.
Richard R. H. Witherby, Esq.

June 29, 1971

Honorable Kevin H. White
New City Hall
Boston, Massachusetts

Dear Mr. Mayor:

I am pleased to submit herewith a report on the Assessing Function in Boston prepared by the Jacobs Company under the direction of the Boston Finance Commission. This study, which was initiated with your approval and that of the City Council, was carried out during the past winter and early spring and covers in a comprehensive fashion most of the significant issues and problems confronting Boston's Assessing Department. This study could not have been carried out without the cooperation of Commissioner Theodore V. Anzelone and the members of his department. The assistance of a variety of other City personnel was also most helpful. We very much appreciate their assistance and forthrightness.

At the outset, it was our stated objective to render a report which would provide the basis for constructive changes in assessing practices--changes which would enable the City to obtain greater effectiveness in the operation of this critical Department and uniformity and equity in the final appraisal product. I believe that this report contains a blueprint for assessing reform which I think we all recognize is long overdue. Some of the recommendations are bound to be controversial. This is to be expected. Notwithstanding any particular disagreements or differences of opinion that may develop, however, I believe that the report commends itself to a program of deliberate implementation.

Some of the findings contained in this report are not original. The fact that some are not stated here for the first time, however, does not make them any less important. Indeed, the fact that repeated studies of the Assessing Department since 1948 have reached a unanimity on such points indicates to me that not only are they valid but that the time for action is long overdue.

At the risk of omitting something critical I thought it might be helpful to highlight what to me at least seemed the most significant findings in the report.

1. As we all know, the property tax, by itself, is an inadequate and regressive source of revenue in Boston. The inequity of the situation is heightened dramatically by the fact that over 52% of the property in Boston is tax exempt. The remaining taxable property must bear the cost of over 65% of all municipal revenue requirements. This is too heavy a burden. In the long run the City must be permitted to develop other revenue sources. Most probably, either a city sales or payroll tax. Of the nation's 43 largest cities only Boston, Milwaukee and Indianapolis fail to use some other local revenue source. In addition, there is a good basis now for imposing land service charges on exempt institution and serious consideration must be given at once to this income source. Land service charges are not substitute for new revenue sources, however.

Notwithstanding the development of these other revenue sources, Boston will continue to rely heavily on ad valorem taxes. Consequently the effectiveness of the Assessing Department is a matter of critical importance.

2. At present 54% of the surface area of the City is exempt not including 5.7 square miles in use as rights of way. There are opportunities to expand our tax base somewhat by a more aggressive use of air rights over public rights of

way (and even, municipal structures which do not fully utilize the economic potential of their locations).

3. There have been various studies of the Assessing Department over the years but not one of them have been carried through to completion. As a result, the Jacobs Company has found the Assessing Department in a state of structural disorganization and confusion. This is the same conclusion, however, reached by Cuthbert Reeves in 1948!

4. It appears that the Department not only has severe organizational problems but in carrying out its basic function of establishing property values it is not applying uniform and proper appraisal techniques nor developing the information and records necessary for the effective use of those techniques. There is no equity under the current system of assessments, abatements and exemptions. Systematic appraisal standards need to be established and the assessors need to be trained in their use and required to apply them. Such deficiencies of appraisal technique and a severe lack of verified information about properties may account in large part for the volume and regularity of overvaluation abatements. Since the Equalization Survey of 1957-1959, which covered about 25% of the City's 105,000 parcels, little has been done, if anything, to equate appraisals, and even valuations established by that survey appear now to be out of date.

5. Over the years, assessors in Massachusetts have established a de-facto classification system for assessing purposes, which is clearly contrary to the Constitution of the Commonwealth. While recent court decisions may condone fractional valuations, the ratios should be uniform and equitable as to all properties.

6. In the case of commercial properties, at least seven different assessing approaches, including percentage of gross income, gross rent multiplier, and "proportional return" are being used. In the place of such inconsistent and frequently incompatible appraisal techniques a consistent capitalization of income approach is recommended which will provide for all the relevant factors affecting a particular parcel.

7. Since the Prudential agreement, the City of Boston has been pressed hard by developers for agreements on most new construction whether constitutionally entitled to an exemption or not. Despite the historical justification for these agreements, there is now a need to update all such agreements and bring them up to a uniform standard under a constant assessed valuation formula wherever possible. This would still enable a developer to project his property tax liability. In the meantime, annual review of these arrangements is advisable. The City should seek to reform outstanding agreements to this basis and seek to obtain the approval of MHFA and FHA of this appraisal technique. Finally, actual costs and income and economic rents rather than anticipated costs and projected income should be used in valuing such developments.

8. Lack of valid appraisal techniques and inadequate information accounts for much of the abatement problem. The fact that clause abatements are not treated as exemptions from the outset adds to the problem and is inconsistent with theory and good assessing practice.

The City is improperly restoring the values of property which have been abated for overvaluation to their unabated values in the subsequent year, thereby forcing taxpayers to seek abatements year after year in many cases. This practice is wrong and should be eliminated. Once granted by the Department, an overvaluation abatement should stand for three years in the absence of a significant change in the property.

Only if uniform appraisal techniques are applied, and Assistant Assessors required to place equitable and consistent valuations on the properties within their districts, can we expect a substantial reduction in abatements for overvaluation. Field personnel, however, cannot be criticized for failure to use proper techniques or for the inequities which follow if the Assessing Department does not develop and enforce up-to-date standards and techniques for their guidance and use. The lack of an orderly and effective appraisal system forces the community to depend on abatements and ultimately the Department itself becomes the victim of its own deficiencies.

While the abatement process is generally regarded as quasi-judicial in nature, in fact it is more administrative than judicial. In this context, there will always be a need for an effective abatement process. At present, however, the Board of Review has no staff to review appraisals made by the field men and to supply other information needed to make a sound judgment on abatement applications. Therefore, it is recommended that the Board of Review be strengthened by 1.) making it a full-fledged operating division of the Assessing Department and, 2.) providing it with a qualified staff. The assignment of a District Director and two Supervisors to the Abatement Division to function as a value adjustment section would enable the Board to screen and review all abatement applications and would greatly improve the effectiveness of the Abatement Division.

Finally, there is a credibility gap so far as abatements are concerned. The above recommendations will do much to restore public confidence. In addition, however, it is recommended that the Assessing Department prepare and issue a weekly status report on abatement applications which should be made public. In

connection with this status report, the Abatement Division should maintain an "appearance" file or a log in which all attorneys or other owner-representatives, appearing before the Department in connection with any abatement, will be listed.

9. From an organizational standpoint, the Assessing Department is in a state of confusion. Lines of authority and responsibility are not clear cut, administrative procedures are lacking and managerial standards of control are cumbersome and preclude competent supervision and administration. Fortunately, under the 1961 Ordinance, the Board of Assessors has broad powers to reorganize the Assessing Department. The Department should be structured around three basic divisions: Appraisal, Administration and Abatement. Associate Commissioners would be placed in charge of the first two divisions and the Chairman of the Board of Review in charge of the other. The Commissioner of Assessing should be given a professional staff to assist him in his managerial administrative duties. Research should be made a staff function and completely overhauled and revitalized so that it will provide continuous valuation studies and other statistical information to the members of the Appraisal Division. The Appraisal Division, which will always be the key division in the Department should be more flexibly organized to carry out its two basic functions: 1.) to appraise real property and, 2.) to appraise personal property. Instead of assigning District Directors and Assistant Assessors to static geographical districts, the realty appraisal section should operate in four area teams with the assistance of two staff specialists, one of whom would concentrate on residential properties and the other on commercial and industrial properties. The Department must be able to assign any appraisal team to any section of the city when there is an indicated need for a concentrated appraisal effort.

This report is far too comprehensive to cover fully in a letter. The questions it raises and the recommendations it makes demand careful review and consideration. The next step will be for you and your staff to evaluate the recommendations and determine how best to implement them. Since implementation is critical, your decision to appoint a follow-up committee with the necessary power to analyze these recommendations and push them to adoption (as recommended in the Report) is most encouraging. This report must not be relegated to a shelf like the assessing studies that have preceded it. The financial implications to the City and the various legal and equitable considerations are too great. You may be sure that the members and staff of the Finance Commission will provide you with all the support we can muster to bring about the constructive changes that have been recommended. I sincerely hope that all others seriously concerned with the well-being of the City will do likewise.

Respectfully submitted,

Lawrence T. Perera

LTP:lg



